THE FUTURE OF COMMERCIAL MOTOR VEHICLE SAFETY: TECHNOLOGY, SAFETY INITIATIVES, AND THE ROLE OF FEDERAL REGULATION

(114–15)

HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

APRIL 29, 2015

Printed for the use of the
Committee on Transportation and Infrastructure

Available online at: http://www.gpo.gov/fdsys/browse/committee.action?chamber=house&committee=transportation

U.S. GOVERNMENT PUBLISHING OFFICE

94–380 PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

BILL SHUSTER, Pennsylvania, *Chairman*

DON YOUNG, Alaska
JOHN J. DUNCAN, JR., Tennessee, *Vice Chair*
JOHN L. MICA, Florida
FRANK A. LOBIONDO, New Jersey
SAM GRAVES, Missouri
CANDICE S. MILLER, Michigan
DUNCAN HUNTER, California
ERIC A. "RICK" CRAWFORD, Arkansas
LOU BARLETTA, Pennsylvania
BLAKE FARENTHOLD, Texas
BOB GIBBS, Ohio
RICHARD L. HANNA, New York
DANIEL WEBSTER, Florida
JEFF DENHAM, California
REID J. RIBBLE, Wisconsin
THOMAS MASSIE, Kentucky
TOM RICE, South Carolina
MARK MEADOWS, North Carolina
SCOTT PERRY, Pennsylvania
RODNEY DAVIS, Illinois
MARK SANFORD, South Carolina
ROB WOODALL, Georgia
TODD ROKITA, Indiana
JOHN KATKO, New York
BRIAN BABIN, Texas
CRESENT HARDY, Nevada
RYAN A. COSTELLO, Pennsylvania
GARRET GRAVES, Louisiana
MIMI WALTERS, California
BARBARA COMSTOCK, Virginia
CARLOS CURBELO, Florida
DAVID ROUZER, North Carolina
LEE M. ZELDIN, New York

PETER A. DEFAZIO, Oregon
ELEANOR HOLMES NORTON, District of Columbia
JERROLD NADLER, New York
CORRINE BROWN, Florida
EDDIE BERNICE JOHNSON, Texas
ELIJAH E. CUMMINGS, Maryland
RICK LARSEN, Washington
MICHAEL E. CAPUANO, Massachusetts
GRACE F. NAPOLITANO, California
DANIEL LIPINSKI, Illinois
STEVE COHEN, Tennessee
ALBIO SIRES, New Jersey
DONNA F. EDWARDS, Maryland
JOHN GARAMENDI, California
ANDRÉ CARSON, Indiana
JANICE HAHN, California
RICHARD M. NOLAN, Minnesota
ANN KIRKPATRICK, Arizona
DINA TITUS, Nevada
SEAN PATRICK MALONEY, New York
ELIZABETH H. ESTY, Connecticut
LOIS FRANKEL, Florida
CHERI BUSTOS, Illinois
JARED HUFFMAN, California
JULIA BROWNLEY, California

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

SAM GRAVES, Missouri, *Chairman*

DON YOUNG, Alaska
JOHN J. DUNCAN, JR., Tennessee
JOHN L. MICA, Florida
FRANK A. LOBIONDO, New Jersey
DUNCAN HUNTER, California
ERIC A. "RICK" CRAWFORD, Arkansas
LOU BARLETTA, Pennsylvania
BLAKE FARENTHOLD, Texas
BOB GIBBS, Ohio
RICHARD L. HANNA, New York
DANIEL WEBSTER, Florida
JEFF DENHAM, California
REID J. RIBBLE, Wisconsin
THOMAS MASSIE, Kentucky
TOM RICE, South Carolina
MARK MEADOWS, North Carolina
SCOTT PERRY, Pennsylvania
RODNEY DAVIS, Illinois
ROB WOODALL, Georgia
JOHN KATKO, New York
BRIAN BABIN, Texas
CRESENT HARDY, Nevada
RYAN A. COSTELLO, Pennsylvania
GARRET GRAVES, Louisiana
MIMI WALTERS, California
BARBARA COMSTOCK, Virginia
BILL SHUSTER, Pennsylvania *(Ex Officio)*
ELEANOR HOLMES NORTON, District of Columbia
JERROLD NADLER, New York
EDDIE BERNICE JOHNSON, Texas
STEVE COHEN, Tennessee
ALBIO SIRES, New Jersey
DONNA F. EDWARDS, Maryland
JANICE HAHN, California
RICHARD M. NOLAN, Minnesota
ANN KIRKPATRICK, Arizona
DINA TITUS, Nevada
SEAN PATRICK MALONEY, New York
ELIZABETH H. ESTY, Connecticut
LOIS FRANKEL, Florida
CHERI BUSTOS, Illinois
JARED HUFFMAN, California
JULIA BROWNLEY, California
MICHAEL E. CAPUANO, Massachusetts
GRACE F. NAPOLITANO, California
CORRINE BROWN, Florida
DANIEL LIPINSKI, Illinois
PETER A. DEFAZIO, Oregon *(Ex Officio)*

CONTENTS

Page

Summary of Subject Matter vii

WITNESSES

Danny Schnautz, Vice President, Clark Freight Lines, on behalf of the Owner-Operator Independent Drivers Association:
- Testimony 6
- Prepared statement 45
- Responses to questions for the record from Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia 63

Tom B. Kretsinger, Jr., President and Chief Executive Officer, American Central Transport, on behalf of the American Trucking Associations:
- Testimony 6
- Prepared statement 67
- Responses to questions for the record from Hon. Elizabeth H. Esty, a Representative in Congress from the State of Connecticut 78

William "Bill" Reese, Captain, Idaho State Police, on behalf of the Commercial Vehicle Safety Alliance:
- Testimony 6
- Prepared statement 79
- Additional comments for the record 92

Brian Scott, President, Escot Bus Lines, LLC, on behalf of the United Motorcoach Association:
- Testimony 6
- Prepared statement [1] 95

LaMont Byrd, Director of Safety and Health, International Brotherhood of Teamsters:
- Testimony 6
- Prepared statement 108
- Responses to questions for the record from Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia 130

PREPARED STATEMENTS SUBMITTED BY MEMBERS OF CONGRESS

Hon. Elizabeth H. Esty, of Connecticut 43

SUBMISSIONS FOR THE RECORD

Hon. Richard L. Hanna, a Representative in Congress from the State of New York, submission of press release, American Transportation Research Institute, ATRI Research Finds Truck Operations and Safety Have Been Impacted by 34-Hour Restart Provisions, April 29, 2015 15

Hon. Grace F. Napolitano, a Representative in Congress from the State of California, submission of the following documents:
- Letter to Hon. Napolitano from Ron Cottingham, President, Peace Officers Research Association of California, February 18, 2013 21
- Written statement of Lawrence Liberatore, Board Member, Parents Against Tired Truckers 134
- Written statement of Ron Wood, Volunteer, Truck Safety Coalition, and Member, Entry-Level Driver Training Advisory Committee, Federal Motor Carrier Safety Administration 136
- Written statement of Frank Wood, Volunteer, Truck Safety Coalition 138

[1] The appendix to Mr. Scott's prepared statement can be found online at the U.S. House of Representatives Document Repository at http://docs.house.gov/meetings/PW/PW12/20150429/103351/HHRG-114-PW12-Wstate-ScottB-20150429.pdf.

Page

Hon. Grace F. Napolitano, a Representative in Congress from the State of California, submission of the following documents—Continued
Written statement of Joan Claybrook, Cochair, Advocates for Highway and Auto Safety 140
Letter to House Committee on Appropriations from five Idaho groups in opposition to special interest truck safety exemptions in the fiscal year 2016 THUD appropriations bill, May 12, 2015 159
Letter to House Committee on Appropriations from Parents Against Tired Truckers and Citizens for Reliable and Safe Highways imploring the removal of all anti-truck safety provisions in the fiscal year 2016 THUD appropriations bill, May 12, 2015 161
Hon. Reid J. Ribble, a Representative in Congress from the State of Wisconsin, submission of a Federal Motor Carrier Safety Administration study summary of truck stopping distances 32

ADDITIONS TO THE RECORD

American Bus Association, written statement of Peter J. Pantuso, President and Chief Executive Officer 165
Associated General Contractors of America, written statement 167
Uline, written statement of Elizabeth Uihlein, President 171

Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

Christopher P. Bertram, Staff Director

Katherine W. Dedrick, Democratic Staff Director

April 24, 2015

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on "The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation."

PURPOSE

The Subcommittee on Highways and Transit will meet on Wednesday, April 29, 2015 at 2:00 p.m. in 2167 Rayburn House Office Building to receive testimony related to commercial motor vehicle safety. The Subcommittee will hear from representatives of the Owner-Operator Independent Drivers Association; the American Trucking Associations; the Commercial Vehicle Safety Alliance; the United Motorcoach Association; and the International Brotherhood of Teamsters.

BACKGROUND

The Federal Motor Carrier Safety Administration (FMCSA) was established within the U.S. Department of Transportation (U.S. DOT) on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999 (P.L. 106-159) to prevent commercial motor vehicle accidents, fatalities, and injuries. Truck-related crashes and fatalities had been growing at an alarming rate, and it was determined that specific focus apart from the Federal Highway Administration's (FHWA's) Office of Motor Carriers could help promote truck and bus safety improvements.

FMCSA's activities contribute to ensuring safety in motor carrier operations through enforcement of safety regulations; targeting oversight on high-risk carriers and commercial motor vehicle drivers; improving safety information systems and commercial motor vehicle technologies; strengthening commercial motor vehicle equipment and operating standards; and increasing safety awareness. To accomplish these activities, the agency works with federal, state, and local enforcement agencies, the motor carrier industry, safety advocacy groups, and others.

Since FMCSA's creation, registrations of large truck and buses have increased 31 percent. However, the rate of fatal crashes involving large trucks or buses has fallen from 0.178 per 100 million vehicle miles traveled by all motor vehicles to 0.127 in 2013. The rate reached an all-time low in 2009 when the fatal crash rate declined to 0.108.[1]

Significant gains have been achieved in improving truck and bus safety. This hearing will examine how best to make additional strides, examining the roles of technology, regulation, and new safety initiatives.

MAP-21 Commercial Motor Vehicle Safety Provisions:

The Motor Carrier Safety Grant Programs

MAP-21 continued the Motor Carrier Safety Assistance Program (MCSAP; 49 U.S.C. 31102) and funded the program at $215 million in fiscal year 2013 and $218 million in fiscal year 2014. MCSAP is a federal grant program that provides financial assistance to states to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMV). FMCSA is responsible for administering the MCSAP grants at the federal level. In each state, grants are administered by the designated motor carrier safety office. The goal of the MCSAP is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Investing grant monies in appropriate safety programs increases the likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices are detected and corrected before they become contributing factors to crashes.

MAP-21 also continued other FMCSA grant programs including Border Enforcement grants ($32 million); Commercial Driver's License Program Improvement grants ($30 million); Commercial Vehicle Information Systems and Networks Deployment ($25 million); Performance and Registration Information Systems Management grants ($5 million); and Safety Data Improvement Grants ($3 million).

Electronic Logging Devices

MAP-21 mandated that commercial motor vehicles involved in interstate commerce and operated by a driver subject to the hours of service and record of duty status requirements be equipped with an electronic logging device to track drivers' compliance with hours of service regulations. MAP-21 required FMCSA to issue a final rule implementing this requirement by July 2013. However, FMCSA did not issue a proposed rule until March 28, 2014. The public comment period ended on June 26, 2014, and U.S. DOT estimates releasing the final rule in September 2015.

Crash-Worthiness Standards

---

[1] Federal Motor Carrier Safety Administration, *Large Truck and Bus Crash Facts 2013.* A large truck is defined as a truck with a gross vehicle weight greater than 10,000 pounds. A bus is defined as any motor vehicle designed primarily to transport nine or more persons, including the driver.

MAP-21 required FMCSA to conduct a comprehensive analysis of the need for crashworthiness standards on commercial motor vehicles with a gross vehicle weight of more than 26,000 pounds. Specifically, the analysis was to consider standards including roof strength, pillar strength, air bags, and other occupant protection standards to better protect drivers of commercial motor vehicles. The report, which was due in April 2014, has not yet been submitted to Congress.

Entry Level Driver Training

MAP-21 required FMCSA to issue regulations, within one year of enactment, establishing minimum training requirements for individuals seeking to obtain a commercial driver's license (CDL). U.S. DOT has not yet finalized a rulemaking on driver training standards. Congress first directed U.S. DOT to study whether driver training is adequate in 1991. A 2007 proposed rule for entry level driver training standards was withdrawn in 2013. In December 2014, FMCSA announced it was convening an advisory committee to complete a negotiated rulemaking. The advisory committee has 26 members representing FMCSA, the trucking industry, labor, law enforcement, training institutions and safety advocates. FMCSA expects to publish a proposed rule in 2015 for public comment and a final rule in 2016.

Motorcoach Safety

MAP-21 required the National Highway Traffic Safety Administration (NHTSA) to consider requiring new motor vehicle safety standards for motorcoaches including roof strength and crush resistance, anti-ejection countermeasures, rollover prevention, and fire prevention and mitigation. In addition, the law required seat belts be installed at each seating position on a motorcoach. NHTSA finalized its seat belt rule in November 2013 and the new requirements will take effect on November 28, 2016.

Drug and Alcohol Testing

FMCSA drug and alcohol rules apply to safety-sensitive employees who operate commercial motor vehicles requiring a CDL. These rules require drug and alcohol testing under several conditions: pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up. MAP-21 required FMCSA to set up a national clearinghouse for drug and alcohol testing results for commercial drivers to ensure that recent drug test failures could be identified by future employers. FMCSA is in the final stages of developing a proposed rule.

Truck Size and Weight

MAP-21 required FHWA to complete a comprehensive truck size and weight study within two years. The agency was directed to evaluate accident risk and frequency; impact to infrastructure, including bridges; safety impacts; and freight diversion to other modes. This study was due in October 2014. FHWA has not yet submitted this study to Congress.

Other U.S. DOT Rulemakings:

The U.S. DOT is undertaking several other rulemakings on its own initiative relating to commercial motor vehicle safety.

- *Heavy Vehicle Speed-Limiters*: FMCSA initiated a rulemaking on May 29, 2013 to require the installation of speed-limiters on commercial motor vehicles with a gross vehicle weight of more than 26,000 pounds. A Notice of Proposed Rulemaking is expected to be released in July 2015.

- *Electronic Stability Control:* NHTSA is undertaking a rulemaking to require the installation of stability control systems on truck tractors and motorcoaches that address rollover and loss-of-control crashes. According to U.S. DOT, these accidents are responsible for 304 fatalities and 2,738 injuries annually. The final rule is expected to be released on May 7, 2015.

- *Minimum Financial Responsibility:* MAP-21 required FMCSA to review and issue a report on the appropriateness of minimum financial responsibility requirements within six months of enactment and every four years thereafter. FMCSA completed this report in April 2014, and issued an Advanced Notice of Proposed Rulemaking in November 2014 to consider increasing the minimum levels of financial responsibility for motor carriers.

The Compliance, Safety, and Accountability (CSA) Program

The Compliance, Safety, and Accountability (CSA) program is FMCSA's primary tool for evaluating the safety performance of commercial motor carriers. Implemented in December 2010, the main component of CSA is the Safety Measurement System (SMS) that analyzes safety violations from inspections and crash data to identify high-risk motor carriers for compliance reviews and other more-focused interventions to address specific problems. The SMS uses seven safety improvement categories called Behavior Analysis and Safety Improvement Categories (BASIC) to examine a carrier's on-road performance and potential crash risk. The seven BASICs are Unsafe Driving, Fatigued Driving (Hours-of-Service), Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance, Cargo-Related and Crash Indicator.

The final component of the CSA program is FMCSA's rulemaking to revise the methodologies used to make a safety fitness determination (SFD) of a motor carrier as either "fit" or "unfit," based on roadside inspections and SMS data. Currently, motor carriers are assigned a "satisfactory," "conditional," or "unsatisfactory" safety rating based upon on-site investigations and compliance reviews. The Notice of Proposed Rulemaking is expected to be released in August 2015.

Hours of Service

Federal motor carrier safety regulations govern commercial driver hours of service (HOS), or limits on the maximum time that a driver may operate a commercial motor vehicle. On

December 27, 2011, FMCSA issued a final rule in the *Federal Register* revising the HOS requirements. The final rule:

- Retained both the current 11-hour daily driving limit and the 60- and 70-hour weekly driving limits and the maximum "driving window" remains at 14 consecutive hours after coming on-duty.
- Modified the "34-hour restart" provision to require at least two periods of rest during 1:00 a.m. – 5:00 a.m. and it can only be used once during a seven-day period.
- Restricted motor carrier drivers from driving after working eight hours without first taking a break of at least 30 minutes. Drivers can take the 30-minute break whenever they need rest during the eight-hour window.
- Reduced by 12 hours the maximum number of hours a motor carrier driver can work within a week. Under the old rule, truck drivers could work on average up to 82 hours within a seven-day period. The new HOS final rule limits a driver's work week to 70 hours.

A number of exemptions have been provided to certain industries in statute, including utility drivers and agriculture haulers. The HOS rule has been the subject of extensive litigation since 2003, when FMCSA first issued its rule to extend maximum driving time from ten hours to 11 hours, while increasing the mandatory rest period from eight hours to ten hours. In August 2013, a U.S. District court upheld most of FMCSA's December 2011 final rule, but struck down the 30 minute rest break requirement for short-haul drivers.

In the fiscal year 2015 Omnibus, Consolidated and Further Continuing Appropriations Act (P.L. 113-235), Congress temporarily suspended enforcement of the hours of service regulation related to the restart provisions and required FMCSA to complete a naturalistic study on the impact of the 34-hour restart provisions. The restart provisions will remain suspended until the completion of the study and submission of the final report to Congress. The Inspector General recently approved the main areas of the study design, as required by law, and a five-month period of data collection with more than 150 participating drivers is underway. FMCSA expects to submit the final report to Congress by the end of 2015.

WITNESS LIST

Mr. Danny Schnautz
Operations Manager
Clark Freight Lines
On behalf of the Owner-Operator Independent Drivers Association

Mr. Tom Kretsinger
President
American Central Transport
On behalf of the American Trucking Associations

Mr. Bill Reese
Captain
Idaho State Police
On behalf of the Commercial Vehicle Safety Alliance

Mr. Brian Scott
President
Escot Bus Lines, LLC
On behalf of the United Motorcoach Association

Mr. LaMont Byrd
Director, Safety and Health Department
International Brotherhood of Teamsters

THE FUTURE OF COMMERCIAL MOTOR VEHICLE SAFETY: TECHNOLOGY, SAFETY INITIATIVES, AND THE ROLE OF FEDERAL REGULATION

WEDNESDAY, APRIL 29, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:31 p.m. in room 2167, Rayburn House Office Building, Hon. Sam Graves (Chairman of the subcommittee) presiding.

Mr. GRAVES OF MISSOURI. We will go ahead and call the hearing to order. I appreciate everybody being here today, and we are going to focus on the future of motor carrier safety. And it is important to note at the outset that the safety record of commercial motor carriers and motorcoach operators has improved dramatically since the Federal Motor Carrier Safety Administration was established in 1999.

According to the FMCSA's most recent "Large Truck and Bus Crash Facts," the number of large trucks and buses involved in fatal crashes decreased by 17 percent and 4 percent, respectively, from 2003 to 2013. Industry, drivers, and the enforcement community alike deserve the credit for all of these achievements.

Congress, and this committee in particular, has played an important role as well, from creating the FMCSA to focus specifically on truck and bus safety, to authorizing the Motor Carrier Safety Assistance Program, which provides resources for States to enforce Federal commercial motor vehicle regulations. I am concerned, however, about the growing scope and number of new regulations being placed on the industry. Just in the past few years, the agency has imposed new hours-of-service regulations; implemented the controversial CSA program; and, at the direction of Congress, it has imposed new equipment mandates on both truck and bus operations and operators.

I am also concerned about the growth of FMCSA. The budget for the agency has more than doubled since fiscal year 2001, its first full year of operation, and stands at $572 million. While I support a strong safety program, we need to ensure that funds are being spent on initiatives that will move the needle in terms of reducing crashes, injuries, and fatalities on the Nation's highways. Of particular concern to me is a recent regulatory proposal to raise the

minimum levels of financial responsibility, potentially by millions of dollars.

As this committee continues to work on the long-term surface transportation reauthorization, we should examine what additional safety technologies and initiatives and commonsense reforms to the regulatory process could be employed to further reduce crashes, injuries, and deaths attributable to commercial motor vehicles, if more regulation is needed—or should Congress concentrate to a greater extent on providing the right incentives for truck and bus operators to operate safely?

We are grateful that each of the stakeholders represented today has developed thoughtful policy recommendations, and look forward to a robust debate over the specific proposals. From providing greater flexibility to State enforcement agencies, to encouraging the development and deployment of active safety systems and reforming the way FMCSA undertakes rulemakings, various proposals deserve robust debate and some serious consideration.

I am hopeful that today's hearing is going to provide our subcommittee members with insight into the broad spectrum of proposals to continue improving motor carrier safety and inform this committee's work as we develop a long-term surface transportation reauthorization bill. And I look forward to hearing from our witnesses.

And I now recognize Ms. Norton for her opening statement.

Ms. NORTON. Thank you very much, Chairman Graves, for scheduling this hearing. This is an important hearing. And I congratulate you, because it is the first hearing under your leadership. And I look forward to working closely with you.

I recognize, Mr. Chairman, that both you and Chairman Shuster want a long-term highway bill. So before I say anything about the direct subject matter, important vehicle safety issues, I must express the frustration I am hearing, not only in my district, but from around the country, about the delay, or what appears to be delay, in getting through this committee a long-term surface transportation authorization bill.

Mr. Chairman, if not a long-term bill—for example, a 4-year bill, and I have been here when there have been 6-year bills—certainly a longer term bill than the past, the very short bill that was passed in 2012. We need the longest term bill possible. It is inconceivable to me that we are 10 days away from May 31st, the date the deadline expires. And I have seen no indication that, during this period, there has been movement on even trying to get a bill.

That is what is most troubling to me, Mr. Chairman. And it is particularly frustrating, now that we are full into the construction season. And there is no certainty of the future of a highway and transit program with funding, whatsoever, that we have been able to transmit to State and local governments. So, what do we see them doing? They are already slowing down projects that have been long delayed.

I also do not see the search for a sustainable solution to shore up the Highway Trust Fund. We know what happened with the solution we have been using for 50 years; we ran out of funds, and funds had to be transmitted from the Treasury in order to just get through the authorized period. The Congressional Budget Office es-

timates that the shortfall, if we use that approach, is $174 billion over the next 10 years. And that is just to maintain funding levels, without doing anything about what have become now increasingly urgent needs in our State and localities.

The gap for a 6-year bill at current levels is $92 million. And if you want to see that increase, the longer we hold up, the more expensive whatever bill we put out will be. So you would think that there would be every effort to contain the cost by getting a bill out on the streets now.

The real test is how quickly Congress moves after we pass whatever extension we do, of course, to find a funding plan for a long-term bill. I know that Chairman Shuster stands firm in wanting our committee and our subcommittee to move a robust, long-term bill. It is up to the Republican leadership and the tax-writing committees to come to the table and show that they are serious, as well.

Today's hearing, of course, is about the future of motor carrier safety. This is a subject that I am very interested in, and particularly the innovative technologies and new ideas that I have begun to hear about to raise the bar on safety. I hope this hearing, however, is a refreshing change from what has become the norm on truck and bus issues: endless requests for exemptions and calls to block DOT safety rules.

There is, no doubt, room for some improvement on many rules that the Federal agencies have issued. But, rather than calls to eliminate regulation, as has become the norm, we should be challenging industry, DOT, and stakeholders to sit down, be creative, work toward a common goal, and utilize their resources in a way that will have the most positive effect on safety.

I know we can do this. This is not an impossible task. I am very interested to hear about steps in the right direction. For example, DOT recently convened a negotiated rulemaking committee to develop a rule on driver training. More robust driver training is something Congress has directed DOT to consider for nearly 25 years. The first directive was in a bill in 1991. To say this rule is overdue is putting it fairly mildly. I hope that this new committee can facilitate a rule that all parties can agree to, which will expedite DOT's publication of the rule, and limit litigation once it is finalized.

I would also like to recognize, finally, Mr. Chairman, the dedication of safety advocates and family members of truck accident victims who come to Members of Congress and continue to work tirelessly to educate Congress and the public. Their stories help to heighten our awareness of the real-world impacts that policy decisions have on our constituents' lives. I welcome their presence here today, as we discuss this issue.

Mr. Chairman, I may have to leave because of the Rules Committee, but I will certainly return. And, again, I thank you for this hearing.

Mr. GRAVES OF MISSOURI. Thank you, Ranking Member Norton.

I am very pleased to have Ranking Member DeFazio with us, and I would yield to him for an opening statement.

Mr. DEFAZIO. Thanks, Mr. Chairman. First and foremost, congratulations on taking over the very important Subcommittee on

Highways and Transit. This, I think, is your first official hearing. And so, congratulations on that. It is an appropriate subject.

You know, I am also looking forward to working with you on a long-term, robustly funded surface transportation bill. I think everybody in the audience should clap at that point.

I delved very deeply into highway and motor carrier safety during my 4 years as chairman of the subcommittee. We held nine hearings. Many of the problems we investigated—development of the CSA, drug testing, medical qualifications of drivers, bus safety, truck size and weight, FMCSA's oversight of carriers—it is all, unfortunately, still very much a work in progress. Very little has been settled.

Since FMCSA was created, Congress has continuously legislated in this area. In MAP–21 alone, we directed FMCSA to undertake 41 regulatory changes, most of which required rulemaking. We keep mandating lots of activity. And today it seems to have resulted in less clarity for the industry, and a wide variety of stakeholders. I think we can do better.

The title of this hearing is "The Future of Commercial Motor Vehicle Safety," and I hope some forward-thinking ideas come out of this hearing. I am very open to solutions that allow flexibility, while advancing safety, and helping drivers do their jobs more efficiently. And I think, in order to look holistically at safety, we have got to look at the realities and the pressures on the ground or on the highway and the industry, and understand what drives decisionmaking and behavior by companies and drivers.

And Federal rules are just one part of that. You know, temporarily blocking FMCSA efforts or granting exemptions may provide some degree of relief or advantage to one segment of the industry or another, but it is a Band-Aid approach. It is not what we should be doing, long term.

Let's take an example. And I spent some time on this issue: hours of service. FMCSA's regulations are incredibly difficult to understand. You know, for our economy to thrive, we can't hamstring companies with overly prescriptive rules. At the same time, hours of service are the basic wage and hour laws for the men and women whose office is the highway, and they aren't eligible for overtime under the Fair Labor Standards Act. And we need to address the, really, very important potential for fatigued drivers on the highways.

But I don't think we can get there until we address some underlying issues, such as detention time. Changes in hours-of-service rules will have limited impact, if we haven't dealt with detention time, particularly as it relates to independent and small-business drivers. The truck driver gets to the loading dock, shipper facility, they can sit there, say, 3 hours, sometimes even more, waiting. But it counts against their daily and weekly on-duty limits. And most truck drivers are paid by the load, rather than a set wage, particularly the independent and small business. So these drivers often face the impossible choice between earning less money than they need to stay in business, despite working a 14-hour day, or violating hours-of-service rules, or shaving them a little bit.

That is a problem that should be dealt with. We used to have rules to deal with that. There is no incentive on the other side of

these loads any more, without detention time pay, to be efficient for the drivers. It is better with the bigger companies, because they can really carry some clout there. But, for a lot of the small business and independents, it is a very real problem.

I have introduced legislation on the detention time in the past, you know, because we owe it to drivers to get the rules right, to combat fatigue, and to give them a fair shot at making a good living. And if the current rules don't get to that goal, then Congress needs to look at other solutions.

I look forward to hearing some innovative ideas. I thank the witnesses for their somewhat voluminous testimony. I did read it all on the airplane yesterday. Luckily, I had a 5-hour flight. And coffee.

[Laughter.]

Mr. DEFAZIO. But there are some very interesting premises in there. I do find some differences of opinion on some critical issues, and hopefully that will come out during the hearing today.

Thank you, Mr. Chairman.

Mr. GRAVES OF MISSOURI. Thanks, Ranking Member DeFazio.

So, I would like to welcome all of our witnesses here. And I know some of you traveled a long ways, and we obviously appreciate that. I am very—I am especially pleased to introduce Tom Kretsinger, who hails from the Kansas City area. Tom joined the family business in 1981, after graduating from law school, and has served as the president of American Central Transport since 2005. It is a truckload carrier operating over 300 trucks. Tom is an active member of the American Trucking Associations, serving on its ATA Executive Committee and board of directors, and chairing the ATA Litigation Center. He is a previous chairman of the Truckload Carriers Association, and serves on TCA's board of directors.

Tom, welcome to the committee.

I would also like to welcome our other panelists, Mr. Danny Schnautz, vice president, Clark Freight Lines, and he is here on behalf of the Owner-Operator Independent Drivers Association; Captain Bill Reese, with the Idaho State Police, on behalf of the Commercial Vehicle Safety Alliance; Mr. Brian Scott, who is president of Escot Bus Lines, on behalf of the United Motorcoach Association; and Mr. LaMont Byrd, who is the director of safety and health, International Brotherhood of Teamsters.

I would ask unanimous consent that our witnesses' full statements be included in the record.

[No response.]

Mr. GRAVES OF MISSOURI. And, without objection, that is so ordered.

And since your written testimony is going to be made a part of the record, the committee would ask that you please limit your testimony to 5 minutes.

And, with that, Mr. Schnautz, we will start with you.

TESTIMONY OF DANNY SCHNAUTZ, VICE PRESIDENT, CLARK FREIGHT LINES, ON BEHALF OF THE OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION; TOM B. KRETSINGER, JR., PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN CENTRAL TRANSPORT, ON BEHALF OF THE AMERICAN TRUCKING ASSOCIATIONS; WILLIAM "BILL" REESE, CAPTAIN, IDAHO STATE POLICE, ON BEHALF OF THE COMMERCIAL VEHICLE SAFETY ALLIANCE; BRIAN SCOTT, PRESIDENT, ESCOT BUS LINES, LLC, ON BEHALF OF THE UNITED MOTORCOACH ASSOCIATION; AND LAMONT BYRD, DIRECTOR OF SAFETY AND HEALTH, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. SCHNAUTZ. Thank you. Good afternoon. My name is Danny Schnautz, and I appreciate the opportunity to testify on behalf of the Owner-Operator Independent Drivers Association.

My experience in the trucking industry covers over 30 years, and has given me the opportunity to work as a long-haul trucker operating across the United States, as well as in motor carrier management. Additionally, I am a reserve sheriff's deputy captain and a pilot.

OOIDA represents the small-business truckers that are the majority of the trucking industry. More than 90 percent of U.S. carriers own 20 or fewer trucks, and half of all carriers are 1-truck operations. The average small-business trucker has driven more than 20 years and 2 million accident-free miles.

This hearing comes at a critical time for the future of motor carrier safety policy. Instead of a reasoned understanding and approach to improving highway safety by addressing the key factors behind at-fault truck crashes, FMCSA policy enforcement is driven by a goal of absolute compliance with the letter of every single regulation, no matter the connection to at-fault crashes. This is a huge missed opportunity to achieve greater safety results at a lower regulatory burden.

This focus on compliance with each of hundreds of regulations is the genesis for many of the FMCSA's most recent, most costly, and most flawed regulatory and enforcement policies, including changes to hours-of-service rules, technology mandates, and the Compliance, Safety, Accountability program called CSA.

"We were compliant, and we were legal, but we weren't safe." A major carrier CEO said this recently, and he couldn't be more correct. Under its current methodology, CSA inaccurately paints safe, small carriers as unsafe, reducing access to business, and opening them up to misguided enforcement activities. Meanwhile, truly unsafe carriers that crash frequently get ignored.

Two examples illustrate the flaws of FMCSA's current approach. Recently, one of my company's trucks was inspected by a Texas State trooper. Although the truck was in stellar condition, an inspection violation impacting our CSA score was issued, because the trooper determined that the decals for two digits of the truck's USDOT number were unreadable. Also, at a recent safety meeting, rather than discuss topics that would actually relate to safety outcomes, such as breaking down the preventative actions a driver could have taken to avoid a crash, or highlighting proper following

distance, because of CSA we train drivers on the proper completion of a form.

One of OOIDA's greatest concerns is that the FMCSA's approach will force many of the safest drivers and carriers out of the industry, because it inhibits them from being successful small business owners. These are small business truckers with every incentive to operate safely.

The current focus on technology initiatives actually hinders safety by placing more pressure on drivers when they are already caught between a regulatory rock and an economic hard place. Technology is not a substitute for skilled professional drivers, as it results in drivers more focused on not triggering an alert than on making smart, safe driving decisions. With technology in the name of safety further devaluing the skill of the driver, the longstanding approach by the entire supply chain to pay drivers for their productivity, not their value, pushes for more miles and decreases safety.

In addition to today's hyper-focus on compliance and technology, the FMCSA is also advancing an action that directly targets small carriers, and will result in no safety benefit. OOIDA is opposed to a likely 500-percent increase in motor carrier financial responsibility requirements, and we thank Chairman Graves for his help in combating this effort. This change will cause annual truck premiums to increase by $10,000 or more, despite FMCSA's own data showing that the cost of 99 percent of truck-involved crashes are covered currently.

Instead of these approaches, OOIDA sees the upcoming highway reauthorization as an opportunity to set into motion needed changes to FMCSA policy and enforcement priorities. A top goal should be an effectiveness review of existing FMCSA regulations, many of which have been on the books for decades with no evaluation on their impact to safety.

Second, Congress should require any new regulations to be focused on addressing a specific problem and, based upon research, reflecting the entire industry, not just the experience of large motor carriers.

Critically, as the GAO and others have recommended, CSA scores should be removed from public view until the FMCSA corrects the accuracy of the program's data and methodology. We are grateful to Congressman Barletta for his safety-focused bill on this issue, and the committee's work on a long-term reauthorization.

Thank you for the opportunity to testify, and for holding today's hearing.

Mr. GRAVES OF MISSOURI. Thank you very much.

Now we will move to Mr. Kretsinger.

Mr. KRETSINGER. Thank you very much. Chairman Graves, Ranking Member Norton, members of the subcommittee, I am Tom Kretsinger, president and CEO of American Central Transport. Today I testify on behalf of American Trucking Associations, the largest trade association for the trucking industry, representing more than 35,000 member companies. I will speak today about the trucking industry's positive safety record, and about a fundamental change in the Government's approach to truck safety that is needed to continue this long-term trend.

The truck-involved fatality rate has decreased 74 percent since 1975, and in the last decade alone, has dropped 38 percent. Continuous improvement will require an acknowledgment of the principal causes of truck crashes and appropriate countermeasures. The vast majority of truck crashes are the result of driver errors, not vehicle defects. FMCSA's crash causation study found driver error was a critical reason behind 87 percent of crashes studied. Many improvements will also require a broadened approach from the current rules and enforcement-centric model to one promoting voluntary adoption of safety technologies and initiatives.

ATA believes the discussion of the most effective ways to improve truck safety falls into three categories: rules, enforcement, and a new partnership.

ATA has a proud history of supporting new commonsense safety rules. ATA was an early advocate of mandatory drug and alcohol testing, the CDL program, and the upcoming drug and alcohol clearinghouse. ATA continues to call for regulatory initiatives to improve safety.

Regarding these regulations, ATA supports a proposed rule to mandate electronic logging devices to track hours-of-service compliance, a pending rule to mandate stability control devices, with some flexibility to account for the diversity of the industry. ATA is also eager to see a proposed rule calling for mandatory speed limiters on trucks, since vehicle speed is the greatest contributor to highway crashes.

Finally, recognizing the role of driver behavior in crashes, FMCSA should make development of a national system to alert motor carriers to moving violations and license suspensions one of the agency's top priorities.

Turning to enforcement, continuation of long-term improvement in truck safety will require a change in the Government's enforcement approach. Despite clear evidence driver behavior is responsible for the majority of crashes, Federal funding for on-road truck enforcement is predominantly spent on inspecting vehicle condition, not traffic enforcement. Government research shows traffic enforcement, coupled with a limited inspection, is at least four times more effective in preventing crashes and saving lives. Yet FMCSA data reflects a steep decline in enforcement activity. FMCSA's current safety efforts are largely limited to compliance and enforcement.

The agency should use a carrot and stick, but is focused on using the stick. This approach is limited in its effectiveness, and does not address ways to compel positive behavioral change. Government should partner with us to promote voluntary adoption of innovative safety tools and technologies. In short, Government could establish criteria for meeting a gold standard and reward the fleets that made it.

Government incentives can accelerate adoption of new tools and technologies already being embraced by the industry. Among the more promising technologies are video event recorders. These devices, mounted on a windshield, can monitor what occurs inside and outside a vehicle. Records are saved when risky driving or collisions are detected, and a supervisor is subsequently alerted. My company is a good example. We are currently employing these technologies, voluntarily, and it is really helping. We have seen a 64-

percent reduction, both in the number of events and the severity of events, all while increasing the number of units in our trucks.

Mr. Chairman, we are eager to work with the Government on more creative safety approaches.

Thank you for the opportunity to testify.

Mr. GRAVES OF MISSOURI. Thank you very much.

Captain Reese?

Mr. REESE. Thank you, Mr. Chairman, members of the subcommittee. Thank you for holding this important hearing, and for inviting the Commercial Vehicle Safety Alliance to testify. My name is Bill Reese, and I am a captain with the Idaho State Police. I currently serve as the president of CVSA.

The alliance represents the jurisdictions responsible for the enforcement of commercial motor vehicle safety laws in the U.S., Canada, and Mexico. As Congress considers the future of CMV safety, we believe there are a number of opportunities to make changes that will help advance our collective goal of reducing crashes and saving lives. Most critical is giving the States more flexibility to design and implement programs that improve CMV safety. Our top priority is saving lives, but we also have a responsibility to meet a long list of requirements under the Motor Carrier Safety Assistance Program, and to enforce the associated safety regulations, doing all of this with limited resources.

A State's commercial vehicle safety program is comprised of a number of aspects, including roadside inspections, traffic enforcement on commercial motor vehicles, compliance reviews, safety audits, targeted strike forces, educational activities, and even traffic enforcement on private citizens operating dangerously around commercial motor vehicles. The appropriate level for each activity varies from State to State, and changes over time. States need the ability to design a comprehensive CMV safety program that uses creative solutions to address issues unique to that State.

That is not to say that the States should not be held accountable. Congress and FMCSA should focus on setting broad parameters, program elements, goals, and expected outcomes, and then hold the States accountable for meeting program goals, using our annual commercial vehicle safety plan.

We also support consolidating and streamlining the grants, which will reduce administrative burden on the States and provide more stability. This will enable States to spend more time and resources on doing the work of their program, rather than administering it.

We also believe more work needs to be done to update and clean up the Federal regulations, which will benefit both enforcement and industry.

Clarity, consistency, uniformity, and enforceability are the cornerstones of an effective regulatory framework. However, over time, additional regulatory authority, coupled with changes to the industry and technology, can result in inconsistent, outdated, and redundant regulatory language. To address this, CVSA supports requiring that FMCSA conduct a full review of the Federal regulations every 5 years, in collaboration with CVSA and industry. This will help with streamlining the regulations, eliminating outdated

or redundant regulations, and clarifying those that need adjustment.

Work is also needed to bring the safety regulations in line with regulatory guidance, interpretations, and policy memos issued by the agency. While this puts additional administrative burden on FMCSA, maintaining the regulations is one of the agency's core responsibilities, and the benefits and savings that will accrue for enforcement, industry, and the public justify this endeavor.

Congress should also consider eliminating or minimizing the number of legislative exemptions in the future. Legislative exemptions complicate enforcement and have no safety oversight.

Finally, maximizing technology and improving data quality can help capitalize on existing enforcement activities, as well as industry investments. It is imperative that those in the safety and enforcement communities take full advantage of technology to improve safety. New technologies like license plate readers and virtual inspection locations can expand enforcement's footprint, allowing a jurisdiction to cover more miles and more drivers and vehicles than it can with inspectors at fixed facilities, alone.

And we fully support policies that encourage industry to deploy technologies that can assist in preventing and mitigating crashes, such as vehicle stability and collision warning systems. It should be noted, though, that any new requirements on States or industry must be developed with the enforcement community in mind. Deployment of systems and devices will only be effective if they are functioning, and used properly.

One last note. We provided a number of recommendations on how to improve the future of CMV safety, which we hope will be helpful as this committee works on the next transportation bill. However, even with streamlined grants, clear regulations, top-quality data, and full use of all available technology, the State programs cannot be effective without adequate funding. Funding for State CMV programs must keep pace with the growing motor carrier industry.

That concludes my testimony. Thank you for the opportunity to testify.

Mr. GRAVES OF MISSOURI. Thanks, Captain.

Mr. Scott?

Mr. SCOTT. Thank you. Chairman Graves, Ranking Member Norton, members of the subcommittee, on behalf of members of the United Motorcoach Association, thank you for calling this hearing today, and for the opportunity to represent the bus and motorcoach industry in my testimony. This committee has a long and distinguished record of promoting commercial motor vehicle safety in a reasonable and defensible regulatory climate.

I am the president of Escot Bus Lines, a second-generation, family-owned and operated bus and motorcoach company with offices and facilities located throughout central Florida. Like most bus companies, we started small when my parents, Louis and Diane Scott, purchased two mini-buses in 1983. Currently, we operate a fleet of 84 motorcoaches.

Mr. Chairman, I want to frame this conversation from one critical perspective: bus and motorcoach travel is extremely safe. Percentagewise, large buses account for less than one-tenth of 1

percent of the annual highway fatality toll. This remarkable safety record is no small achievement, and is largely attributable to the vigilance and dedication of the men and women that drive, maintain, own, and manufacture our equipment. In a nutshell, our business is moving people safely, timely, and economically.

The Federal Motor Carrier Safety Administration also plays a critical role in facilitating interstate commerce and ensuring the safety of commercial motor vehicles. However, UMA is increasingly concerned that the culture of the agency, through its actions, have not served the cause of public safety, and have been harmful to existing bus and motorcoach carriers and the continued growth and health of the industry.

We are concerned enough to worry about the continued viability of this important transportation sector. For the first time I can recall in my 30-plus-year career, the Nation's motorcoach industry is in decline. A recent census report by John Dunham and Associates for the American Bus Association Foundation concluded that in 2013 the number of motorcoach companies decreased by nearly 5 percent, a loss of 153 carriers in that year alone. Total passenger trips by motorcoach in the U.S. declined by a whopping 32 million.

You may believe the regulatory climate at FMCSA is a significant contributing factor. The biggest issue to UMA is the current regulatory climate at FMCSA. Let me share a real-life example of the negative impacts of the current hostile enforcement posture of FMCSA.

Another example is Jeff and Judy Rodgers, who together founded Southeastern Tours in North Carolina over two decades ago. The company passed compliance reviews with satisfactory ratings in 2003, 2005, and in 2010. The last review began very differently, when the FMCSA representative stated, "I am going to warn you now that we have done five audits like this, and we have put four out of business."

Paperwork snafus, in combination with other correctable deficiencies, led the company being placed out of service. A long, miserable trail of employee layoffs, equipment repossessions, foreclosures, and unpaid creditors are a hallmark of FMCSA's unwarranted, out-of-service orders. Today, Jeff and Judy remain on the sidelines with an uncertain future. Jeff and Judy Rodgers deserve the same opportunity as my parents, Louis and Diane Scott. There are many other examples in my written testimony.

The single largest threat to passenger carriers today is FMCSA's decision to propose a potentially massive increase in minimum financial responsibility limits for passenger carriers. MAP–21 directed FMCSA to study the adequacy of current limits and submit their findings in a report to Congress, which, like every State legislative body in the Nation, has historically established requirements. The report failed to include any analysis for passenger carriers, but focused exclusively on trucks, yet suggests limits as high as a 400-percent increase.

The suggestion that limits should be increased without any study whatsoever is unconscionable. UMA supports a bill introduced just last night by Congressman Scott Perry that clarifies that passenger limits should be established by Congress, and directs FMCSA to do a comprehensive study of current limits and accident claims history

of passenger carriers, consult with both the bus and insurance industries on the study, and submit that study to Congress.

FMCSA's CSA program is another concern. If a driver of a car crashes into a legally stopped bus and is killed, nobody believes the bus and driver or company should be held accountable. Yet FMCSA insists on displaying these crashes to the public as a recorded fatal crash, absent any specific context. The display of nonpreventable crashes to the public is malicious, irresponsible, discouraging for motor carriers, and misleading to the public.

These flaws are not just UMA's views, but GAO agrees. The GAO report of February 2014 concluded that "...FMCSA identified many carriers as high risk that were not later involved in a crash, potentially causing FMCSA to miss opportunities to intervene with carriers that were involved with crashes." My company received a violation, citing us with failing to display the "LLC" at the end of our name. In another instance, finding no violations in a recent inspector of a driver in a vehicle, an enforcement official decided the restroom was smelly, and the carrier was cited.

All too often, we hear enforcement officials say, "Well, we have to find something." In any analysis, safety is not improved, the taxpayer is cheated, and CSA continues irresponsibly.

Finally, UMA is concerned about the delays in approving new entrant applicants for operating authority.

That concludes my testimony. Thank you very much.

Mr. GRAVES OF MISSOURI. Thank you, Mr. Scott.

Mr. Byrd?

Mr. BYRD. Chairman Graves, Ranking Member Norton, members of the subcommittee, my name is LaMont Byrd, I am the director of safety and health at the International Brotherhood of Teamsters. As a union representing more than 600,000 commercial drivers, we welcome the invitation to testify today.

Our members contend daily with crumbling roads, long work hours, bigger trucks, increased congestion, and poorly trained drivers, all of which undermine safety. In order to ensure highway safety, these issues must be addressed.

The current hours-of-service rule is designed to give drivers an opportunity for sufficient rest. It represents two decades of rulemaking, court challenges, and numerous studies. Two critical components of the rule were suspended in last year's cromnibus: the changes to the 34-hour restart provision increases the number of hours that a driver may work from 70 hours to over 80 hours per week; and the required consecutive off-duty periods from 1 a.m. to 5 a.m., also suspended, were designed to mitigate cumulative fatigue.

With the DOT driver restart study underway, Congress should not consider making either of these provisions permanent. The Teamsters strongly oppose increases to truck size and weight. The industry claims that increasing truck size and weight limits will result in fewer trucks on the road. With every increase, truck traffic has grown as shippers have taken advantage of cheaper rates and divert freight from rail to trucks. Highway design, stopping distances, congestion, and the current condition of our infrastructure are all factors that need to be considered as we debate this issue.

The Teamsters Union also opposes increasing 28-foot double trailers to 33 feet. Adding 10 feet to an already elongated tractor-trailer combination decreases maneuverability and visibility, and compromises safety. Congress should not entertain special interest truck size and weight exemptions until it can examine the results of the ongoing comprehensive truck size and weight study.

Testing drivers for substance abuse is necessary to keep unfit drivers off the road. But hair testing presents some interesting challenges. Our primary concern is there are no national standards, as with urine testing. Thresholds for positive test results are low to a point where secondhand smoke and environmental exposures to marijuana, for example, could affect test results. Since there are real consequences for those who test positive, it is important to ensure that these tests produce accurate and fair results.

Equipping trucks with the latest safety technologies will eventually help reduce truck crashes. Technology such as vehicle stability, lane departure warning, and collision warning systems, can help drivers to avoid accidents. The Teamsters also support electronic logging devices to track hours of service. However, it is important to provide drivers with proper training to ensure a high level of driver acceptance, and that the data used by—collected by these technologies not be used to harass the drivers.

For too long, the minimum insurance for motor carriers has remained at $750,000. The 30-year standard has become woefully insufficient, as accidents can easily cost millions of dollars. The Teamsters support raising liability coverage to $4.5 million, and indexing it to inflation of medical costs. In that same vein, the Teamsters Union has serious concerns about attempts to create a national hiring standard for motor carriers. While we appreciate the challenges that shippers and brokers experience in determining what constitutes a safe motor carrier, proposed legislation is overly broad in that it imposes no liability for negligent selection of a motor carrier.

Fixing DOT's safety rating system is a better solution. Safe operating procedures for motor carriers require accountability. FMCSA's CSA program provides that accountability, and we support it. While not perfect, we believe that it is a major improvement over the previous program. Our members report that, as a result of CSA, they are able to perform more comprehensive pre-trip and post-trip inspections, because carriers are more sensitive to how vehicle maintenance, for example, affects the carrier's CSA score.

As I conclude, I want to mention detention time. Teamster drivers are compensated for waiting time, but that is not always the case with nonunion drivers. The longer they wait, the more time they lose, which can affect the time that they have left to drive. These drivers can then feel pressured to violate safety regulations by driving while fatigued.

The IBT is committed to keeping our drivers and all others with whom they share the road safe. We look forward to working with you to help grow a transportation network that meets the future needs of this country, moves freight efficiently, and improves safety on our Nation's highways. Thank you.

Mr. GRAVES OF MISSOURI. Thank you, Mr. Byrd. We will now move into questions. We will start with Mr. Hanna.

Mr. HANNA. Thank you, Chairman. Mr. Kretsinger and Mr. Schnautz, the—I have a report that came out today from the American Transportation Research Institute that has studied the hours of service, the 34-hour restart rule, that was initiated without the completion of the study last July. And the results are very predictable, based on the nature of the study and the quality of the study. I will give you a quick idea of what it is, I just would like your response.

The crash data analyzed shows a statistically significant increase in truck crashes after July 1, 2013. Specifically, with injury and tow-away crashes in particular, the increase in injury and tow-away crashes would be expected, based on shifting of trucks to more congested weekday travel due to increased traffic and exposure. The truck GPS data analyzed identified a shift, because of this rule, from—to daytime hours, and—from nighttime hours to daytime hours, and from weekends to more congested weekdays. All of it could have been anticipated, in my view, and has been widely talked about.

So that the—it is—what we are suggesting here—and I would like to submit this for the record—is that this rule actually made the world less safe for people in your industry. And it is, in my view, specifically because they never even bothered to study the change in dynamics of when they were asking people to drive.

[The information follows:]

FOR IMMEDIATE RELEASE
Contact: Dan Murray
(651) 641-6162
April 29, 2015

ATRI Research Finds Truck Operations and Safety Have Been Impacted by 34-Hour Restart Provisions

Arlington, VA - The American Transportation Research Institute (ATRI) today released the results of a new analysis of the safety and operational impacts from the 34-hour restart provisions. In this latest of an ongoing series of Research Tech Memos, **ATRI analyzed an extensive truck GPS database to identify changes in truck travel by time-of-day and day of the week that may have occurred after the July 1, 2013 change to the Hours-of-Service (HOS) restart provisions. ATRI also examined several years or pre- and post-July 1 federal truck crash data to quantify safety impacts resulting from the HOS rules change implemented by the Federal Motor Carrier Safety Administration.**

The truck GPS data analysis identified a shift of truck traffic from nighttime to daytime and a shift of truck traffic away from the weekends to more congested weekdays, with the biggest decreases in truck activity occurring on Sunday nights.

The crash data analysis showed a statistically significant increase in truck crashes after the July 1, 2013 rule change, specifically with injury and towaway crashes. In particular, the increase in injury and towaway crashes would be expected based on the shifting of trucks to more congested weekday travel due to increased traffic exposure.

The crash increases and operational shifts would ostensibly be independent of overall economic improvement since the statistical tool utilizes percentage change, and tonnage growth percentages over the 2-year period were relatively constant. In addition, truck unit position points are a better indicator of physical truck movements than freight volumes.

ATRI's report features some possible explanations for the GPS and crash data findings as a result of operational changes the industry had to make post-July 1, 2013. Among these are:

- Drivers abandoning use of the more restrictive 34-hour restart in favor of the rolling recap.
- Expanded use of weekend productivity by drivers, particularly Friday into early Saturday driving.
- Earlier weekend dispatches for drivers to avoid disruptions to early week (Monday-Tuesday) operations.

"After many years of crash decreases, everyone knows our industry has experienced an uptick in crashes," said Dean Newell, Vice President, Safety of Maverick USA, Inc. and a member of ATRI's Research Advisory Committee. "This latest analysis from ATRI validates both changes in operations and crash risk that seem to be associated with the restart rule. Regulations should serve to improve safety, not create additional safety risks."

ATRI is the trucking industry's 501(c)(3) not-for-profit research organization. It is engaged in critical research relating to freight transportation's essential role in maintaining a safe, secure and efficient transportation system.

Mr. HANNA. And I am not asking you to confirm or not, but I would just like your—both of your opinions.

Mr. KRETSINGER. Thank you, Congressman, for the question. I saw this study this morning, and I think it proves the law of unintended consequences quite well. And it confirms what I hear from talking to my drivers. Average age of our drivers is 50 years old, so these men and women have been around a while. And they tell me, when you used to get out of the city, you know, you hit that open road, and it would be kind of relaxing. They tell me they are in traffic pretty much all the time now. And, of course, traffic around them is often on a cell phone.

So, I think it is true that pushing—you know, micromanaging the hours the way they have done has pushed more trucks onto the road during weekdays and daylight hours, and that is when the cars are there. And it is not surprising you will have more trouble.

Mr. SCHNAUTZ. Yes. For sure, the hours-of-service restrictions are flawed, in that they try to predict what a driver is going to be feeling and thinking in the days and weeks and hours ahead, which is impossible to do.

I have lived under hours of service, I made a living under hours-of-service regs. So I can tell you that the more flexibility that we have, the better they are. And whenever they put in more restrictions, they do cause more problems, unintended consequences, for sure. But there are so many times when a driver just needs a different hour that day. And every time we reduce that hour availability to him, even if it is not part of a pattern, then we further erode highway safety.

Mr. HANNA. The interesting thing is that they have elected to continue the study, and are using the same university to do the study. And it is pretty clear that everybody involved in this is digging in, for lack of a better term, to prove that what we know through this study and all kinds of anecdotal evidence is not true, so that they are engaging in a study they would like us to believe that they will come out with later in the year that is unbelievable on its face because they are hiring the same people to do it again, who are well paid and clearly have decided that, no matter what the world tells them, they are incapable of making a mistake.

Thank you for your indulgence. I am over my time, I think.

Mr. GRAVES OF MISSOURI. Ms. Hahn?

Ms. HAHN. Thank you, Mr. Chairman. I appreciate you holding this hearing today. This has long been an issue for me on a number of levels, because I represent the Port of Los Angeles. And, along with Long Beach, it is the largest port complex in this country. And one of the moves that I worked on very hard was the idea of off—moving cargo off-peak. And we do have a system at Long Beach and Los Angeles where we are, I think at this point, close to 50 percent of the cargo we are moving in the weekends and in the evenings.

We were on the Panel on 21st-Century Freight Transportation of this committee, and one of the recommendations that came from the panel was that ports across the country implement moving cargo in the evenings and the weekends, mainly because it allows our truck drivers to not have to compete with the commuters during rush hour on Monday through Friday. So I think it makes

sense. I would like to see that, really, as a policy, nationwide. I think it makes a lot of sense.

You know, one of the issues that I—has come to my attention in my port area is the classification of independent contractor for some of the port truck drivers. And I was with them this Monday. They were striking because they felt like there was wage theft and unfair employment practices by categorizing them as independent contractors, as opposed to employees of the country—I mean of the company. And many of these drivers are stuck at the bottom of the economic ladder, while other industry workers around our ports—railroads, longshoremen—are making a good living. These drivers, you know, told me that they are overworked and underpaid, which I think leads to unsafe roads, because of the welfare of the driver.

So, Mr. Byrd, for you, some of these port truck drivers have seen victories in courts. And yet, still, I think this unfair practice exists. Again, particularly from my experience around the ports. What do you—is there a role—is there a Federal role in fixing this injustice? And what would that be?

Mr. BYRD. Thank you for the question. I think it is a very tough and very challenging issue that you raise. With respect to Teamster drivers, our driver members are typically paid for all of their off-duty time. So I—and then there is this whole idea of paid-for detention time.

Ms. HAHN. Right.

Mr. BYRD. Which I think is probably a little easier to enforce, should there be a contract between the shipper and a motor carrier, than it would be for an independent driver. So we think it is important to properly classify the drivers, on the one hand.

We think that the Federal Motor Carrier Safety Administration is doing rulemaking on coercion that we think might lend itself to helping to resolve this, because it brings—as I understand this proposed rule, it brings shippers into the jurisdiction of the agency. And this might be a way to bring them in and give independent drivers some leverage in dealing with the issue.

Ms. HAHN. You know, in terms of the detention time or wait time, again, many of these drivers are only paid sometimes by the load, when they pick it up or drop it off. And yet there was so much wait time, I particularly felt badly for them recently, at the—what was going on at the ports, because of the shippers who gave up the chassis, the ownerships of the chassis, to a third party, which meant the chassis were not where they needed to be for these drivers to pick up the chassis and their load, which gave them more wait time and detention time.

Could you—I just have a few seconds left, but could you elaborate on your comment earlier that sometimes these drivers are then pressured to drive more hours?

Mr. BYRD. Yes. When you have a situation—and we have talked with the port drivers, also. When you have a situation where you have these extended wait periods, and you are paid by the load, and the shipper expects the product to be moved, they are oftentimes pressured to carry that load, without regard to where they stand with respect to compliance with hours of service. That is a very—a real problem. Again, we think that the coercion rulemaking might help us on that.

Ms. HAHN. Thank you. I appreciate that.

Well, I think driving a truck is a good career, it ought to be a good career, and ought to be something where someone could earn a good living by driving a truck, moving this country's goods. So thank you, I yield back.

Mr. GRAVES OF MISSOURI. We have had a procedural vote called, so there is just one vote. And what we will do is break, go take that vote. And please come back as promptly as you can, so the witnesses don't have to wait too long. But we should be—just a matter of time to run over there and run back. So we will—so moved.

Mr. GRAVES OF MISSOURI. Mr. Hanna, I recognize you for a motion.

Mr. HANNA. Motion to adjourn.

Mr. GRAVES OF MISSOURI. Recess.

Mr. HANNA. Recess until after the vote.

[Laughter.]

Mr. HANNA. So we will be—see you back.

Mr. GRAVES OF MISSOURI. So it has been moved to recess, which—I see no objection. So moved. And we will stand in recess until we get back. It shouldn't be too long.

[Recess.]

Mr. GRAVES OF MISSOURI. Thanks, everybody, for your patience. And we will bring this hearing back to order. And we will move to Mr. Barletta for questions.

Mr. BARLETTA. Thank you, Mr. Chair.

Captain Reese, as you know, I have been very concerned with FMCSA's Compliance, Safety, Accountability program. I have heard from companies in my district that the scores are flawed and do not provide good information about the safety record of the commercial motor vehicle companies. Many of your fellow panelists' testimony mentioned violations that impact the CSA score, but have little to do with crash risk, such as Mr. Schnautz's comments on the violations for a blanket not being present in a sleeper cab.

What are your concerns with the CSA program, and are the safety scores fit for the general public?

Mr. REESE. Thank you, Congressman. CVSA supports the legislation you have to remove the scores from public display for a number of reasons. This is—and we sent a letter stating that to FMCSA.

CSA is separate from the MCSAP program, and should not force changes. It is beginning to impact our State programs. Motor carriers are now requesting inspections frequently, in an effort to try to get clean inspections and get their scores down. The DataQ process is being affected. It is an unfunded mandate. And it is a growing burden, and it has just increased since we have the citation adjudication to deal with now.

There are data quality issues, and this could be fixed by implementing hard coding and SmartLogic software. It is something that we have been encouraging FMCSA to do. Some of the traffic enforcement violations that are committed, and citations issued but no inspections done, that information is not in there.

We would like to see the program fully implemented, which would include the safety fitness determination and intervention process. They both remain incomplete. And the bottom line is it

was not being used as intended. We have shippers using this to determine whether a carrier is safe, and it was never intended for that. And these are just some examples on why we would like to see the scores come down from public view.

Mr. BARLETTA. Thank you. Just yesterday I finally received a response from DOT Secretary Foxx to my question about the ongoing truck size and weight study. And, in short, it states that the study will not—will not—include an evaluation of the impacts of heavier trucks on our local roads and bridges.

This is unacceptable. Heavy trucks today travel about 50 billion miles on local roads, the roads that are not being studied. And that amounts to about one-third of all their travel. These are the same local roads excluded from the study that carry about two-thirds of the miles traveled by the public in their cars.

Now, compared to our interstates and major highways, these roads are simply not—they are simply built differently. My family was in the road construction business. We built roads and bridges. I know how many inches of concrete are on an interstate, and I know how many inches of asphalt are on a public or local or township road. It is not the same.

Mr. Byrd and Mr. Schnautz, both of you represent the drivers and the people driving on our local roads. In your professional experience, what have been the conditions you have experienced driving the first and last mile of your routes on local roads?

Mr. SCHNAUTZ. First of all, we see a lot of variance in highway markings, in lane size, in ramp radiuses, things like that, which makes it very challenging.

Second of all, we do see a lot of substandard roads. We see that on the interstates, too, which is typically in the small towns or any town, whenever you are off of the interstate. We are ready to see lanes that you need to try to avoid because it has the big holes in them, and that is hard on your truck. We are often seeing roads that we can't go down, or have weight limits on them, that challenge us to get where we are trying to go without taking a route that we weren't prepared to take.

Mr. BYRD. And I think that our memberships who have operated on the secondary roads have experienced similar—have similar experiences. I think it is pretty clear to us that, oftentimes, these secondary roads are not, you know, quite as safe as a larger interstate.

Mr. BARLETTA. So you agree the secondary roads are more dangerous, as found by The Road Information Program report published last year.

Is there anything in your experience that says that these statistics are wrong?

Mr. BYRD. There is nothing in my experience or in my discussions with our driver membership that would suggest otherwise.

Mr. SCHNAUTZ. Secondary roads are more dangerous. We have a lot of different traffic speeds going on. You have a lot of turns. So, for sure, they are more dangerous.

Mr. BARLETTA. And who pays for the secondary roads? The local townships, the municipalities, the cities who are having the most trouble providing services to their people. I was a mayor, too, and I understand that just as well.

I am going to press Secretary Foxx to find a way to get answers to these questions about the impact on local roads, because that is what I asked for in the study, and that is not what I am getting. I don't care how long it takes. Congress can't make a decision of this magnitude without knowing how this will impact the safety of our constituents, and the ability of the States and the localities to pay for their critical transportation infrastructure. Thank you, Mr. Chairman.

Mr. GRAVES OF MISSOURI. Mrs. Napolitano?

Mrs. NAPOLITANO. Thank you, Mr. Chairman. And thank you to the witnesses.

I want to tell Mr. Byrd on the port truck drivers we are with you. We think that this has been an area where the State of California has been long trying to get some clarity and some assistance to these independent truck drivers. So thank you for your help. And I am also very concerned, Mr. Byrd, about the increase in truck size.

And, Mr. Chairman, I have an email from highway patrol, of California Highway Patrol, opposing increased truck weights, because it creates much more violent and damaging crashes, and it goes on to give other information. And also, the Peace Officers Research Association sent a letter in, actually, in February 2013 in regard to the same thing, saying that they oppose efforts to increase truck size and weight. For the record?

[No response.]

Mrs. NAPOLITANO. Mr. Chairman, the letters for the record?

Mr. GRAVES OF MISSOURI. Without objection.

[The information follows:]

Peace Officers Research Association
of California

February 18, 2013

The Honorable Grace Napolitano
United States House of Representatives
1610 Longworth House Office Building
Washington, DC 20515

Dear Representative Napolitano:

I am writing you today on behalf of the Peace Officers Research Association of California (PORAC) to ask that you oppose efforts to increase truck size and weight. Specifically, *I ask that you **not** co-sponsor H.R. 612.* This bill would allow for 97,000-pound trucks on the roads and bridges in California.

Legislation to raise truck size and weight was considered in the last Congress. There was extensive discussion and debate on the merits of this issue during the markup of the transportation reauthorization bill. In addition to proposals to raise the weight of trucks, there was language to expand where triple trailer trucks could operate and require states to allow longer double trailer trucks. Fortunately, these efforts were defeated.

Ultimately, on a bi-partisan vote, Congress directed the United States Department of Transportation to look further into this issue. MAP-21 called on USDOT to study the safety and infrastructure impacts of heavier and longer trucks. These findings are to be reported back to Congress in the summer of 2014. PORAC fully supports this study.

On behalf of the Peace Officers Research Association of California representing more than 65,000 public safety professionals throughout California and Nevada and more than 900 Associations, *I would ask that you **not** co-sponsor H.R. 612.* Please allow the USDOT to complete its work, as directed by Congress.

If you have any questions, please feel free to contact me.

Sincerely,

Ron Cottingham

Ron Cottingham
President

4010 Truxel Road • Sacramento, CA 95834-3725 • (916) 928-3777 • FAX (916) 928-3760 • (800) 937-6722

Mrs. NAPOLITANO. Thank you, sir. And the issue was raised when I was in the State Assembly of California, back in the nineties, and the truck weights and sizes, the effect of stopping distances, the braking, the vehicle stability control, many of the highways and on-ramps and off-ramps in California just cannot handle the large trucks. And I know a couple years ago there was an effort to increase the tandem 53-footers, and we also opposed that, simply because our on-ramps, off-ramps, and highways are not able to handle the tandem 53-footers.

The fact that it does save lives—and there are a couple of people in the audience who have young—who have had family members killed in accidents, and I think we need to, Mr. Chairman, allow them to have an entry into the record about the reason why they feel it is a necessity to be able to allow the general public to have a weigh-in on this, because it is their safety we are talking about.

So, the other thing, Mr. Byrd, is DOT recently decided to allow Mexican truck companies to apply for authority to operate long-haul trucking services in the United States. And we went over that issue a couple years back, here in this committee. It based its decision on the results of a pilot required by the Congress that determined the safety of long-haul trucking operations beyond the border in the U.S. But the inspector general issued a report saying DOT reached its conclusion based on unreliable data, that the small sample of participating motor carriers was not sufficiently representative to allow DOT to apply the study results to all Mexican truck companies.

Well, fortunately, NAFTA requires it, if I remember correctly. This is one of the parts of the agreement, is—but we need to be sure that, if we are going to allow these trucking companies, that they meet all the safety requirements that we have on our trucking companies and all of our operations. And if you believe that limited inspections conducted on these trucks during the pilot program provided enough information to support DOT's decision to allow them on our U.S. roads.

And, Mr. Schnautz, would you comment on that?

Mr. SCHNAUTZ. Yes, I would be happy to. No, we do not think that the inspections and the data that are being used to open that border up are at all adequate. We saw a lot of nonconformances in inspections during the program. We pointed those out. And it wasn't even really meeting the definition of a pilot program, because of the way it was structured.

But those out-of-service violations were not being properly flagged and then recorded and then reported. And with that overlooked data, and then a far less amount of data than what they initially said they would—going to find and use, there is no way that this is at all representative of the Mexican trucking industry, as a whole.

Mrs. NAPOLITANO. Well, we had great concerns over the ability to keep track of their driving hours, one; of the ability to have trucks operate with the same conditions we asked of our own trucks; with the language issue; with the hazardous material carried on there. And there were—many of those issues have been discussed ad nauseam, I might add. And I think we need to be able to ensure that, if we do, that we do provide them with some—how

would I say—something to follow, so that we can tell them that they will be able to operate, but they have to have their trucks.

I did speak to the Mexican consulate, or the—somebody on the other side. And they indicated to me that all their trucks met the specs, and that they were new trucks. Well, I begged to differ, and I told him so. So we need to be sure that you let us know, because this is an issue of safety on our side, and that is something we all need to be concerned about.

And thank you, Mr. Chair.

Mr. GRAVES OF MISSOURI. Mr. Perry?

Mr. PERRY. Thank you, Mr. Chairman. First question will be to Mr. Scott.

It seems to me that, you know, every single one of us in the room and everybody outside the room is interested in driving on safe roads. And certainly, as a business owner myself, there is almost no upside to minimizing your focus on safety. I mean, whether the cost to your hurt employees or broken equipment or the liability that would come from cutting corners in that regard.

But, with that having been said, can you describe what effect a $20 million insurance minimum would do to a company like yours?

Mr. SCOTT. Well, thank you very much for the question. Basically, going from the current $5 million to $20 million, essentially, you know, quadrupling the current standard, would be financially devastating. And for companies smaller than myself, it would literally put them out of business. And it very well could put us out of business, as well. It would most certainly discourage anybody, any new entrants, from coming into this industry, because they simply would not be able to afford it. And there has been no study, no data shown, that even proves that it is even necessary to do that.

Mr. PERRY. I mean, from my perspective, it is almost like the action might be designed specifically to put the companies out of business, to a certain extent.

Mr. SCOTT. Well, I would agree with you. To me, it seems like a solution in search of a problem.

Mr. PERRY. Has your company experienced any crashes that have exceeded the current $5 million limit?

Mr. SCOTT. We have been in business for 33 years. And no, we have never experienced a loss that has even come remotely close to that.

Mr. PERRY. So, based on that—and you have got 30-some years in it; you are the expert, I am not, so I am just going to ask you—what would you see would be the rationale to raise—for the Federal Government—I am not even thinking that this is the purview of the Federal Government. But if it is—so, if that is the case, what would you suppose would be the rationale to raise it to that?

Mr. SCOTT. I can only speculate on what the thoughts are behind the scenes of—to do that. But it would create a significant hardship on the industry. It would reduce the size and scope of our industry by an amount I am not even sure I can measure. But, as you saw in my comments, the industry is already in decline, and this could very well be, you know, the nail in its coffin.

Mr. PERRY. So, I mean, just like any other business owners, you are choosing—you have got a certain amount of revenue. You have

got to pay employees, you have got to upgrade equipment, you have got to maintain equipment. You have got to pay operating costs associated with all that stuff. The more that you pay in insurance premiums that—for which you don't use—right? You already stated that in 30-some years you haven't used anything close to that limit. That detracts and takes away from everything else, including maintenance and safety. Doesn't it?

Just for anybody that has never operated a business, I think it is important for you to clarify that, because they might not understand that. A lot of folks think that that is just part and parcel to doing business. But something has to give. Your top line has to change, or your bottom line has to. One of them has to change.

Mr. SCOTT. Well, you are absolutely correct. At the end of the day, any increase, any mandate that adds cost to a business has to be passed on to consumers. So our industry—passengers choose to travel by bus because it is convenient, and it is economical, and it is safe. You throw that $20 million around there, and the economical is going to go out the window.

And you are absolutely correct that businesses are going to be forced to make choices. Do I pay my insurance premium this month? Do I pay my bus payment this month? I can't give my drivers a raise. OK? All of those things play a factor.

Mr. PERRY. Thank you. Moving on, Mr. Schnautz—if I have pronounced that correctly—just because you are operating out on the road as well, and I am sure you see this much more than folks like me do—would you say the enforcement emphasis should be focusing on some of the most egregious things? And I would just characterize—I imagine somehow you can get in trouble from a safety violation for having oil—having an oil leak. And as a person who has driven old cars and worked on old cars and aircraft, sometimes you would use the terminology, "If it is not leaking, it means it is empty."

So, what can you tell me about—shouldn't our focus be on the most egregious of things?

Mr. SCHNAUTZ. Absolutely. We get citations for a trailer ID light being out on a daytime, 20-minute drive. And that light won't be used in that 20-minute drive. We get all kinds of violations that really don't at all reward us for having inflated tires that are—have plenty of tread. And whenever we see these things, it has turned us into—a standard of perfection is all that is available to us. And that is not real world. That just does not do anything but cause us to focus on these details. And, as was said a minute ago, that money comes from somewhere. The time to focus on that comes from somewhere. It could be training, it could be other, more important maintenance issues.

Mr. PERRY. Thank you, Mr. Chairman. I yield.

Mr. GRAVES OF MISSOURI. Mr. Gibbs?

Mr. GIBBS. Thank you, Mr. Chairman. And I had to go testify on the Rules Committee, so I have missed your testimony, but I have read it. And I also hope I don't ask a redundant question.

But I want to start with either Mr. Schnautz or Mr. Kretsinger about CSA scores, the Compliance, Safety, Accountability. When I talk to my truckers in my district, I—the stories they tell me are just unbelievable and scary. I had one tell me that, I guess, the

bridge has fallen down there in Cincinnati on I–75, a hunk of concrete fell off and hit the truck, and the truck got dinged on his CSA score.

So, one of you want to elaborate on what is really going on out there? Because I—you know, I have heard—I heard the Administrator told one trucking person, driver, or entity, you know, "You were there." So, I mean, it is definitely broken. Because what happens in these scores, when it is not held—you know, when it is not their fault? It dings on the insurance rates, my understanding, and it also can ding them on—when potential customers, shippers, are looking at safety records and stuff.

So, would you just kind of tell us what is going on in that regard?

Mr. KRETSINGER. Sure. Thank you for that question. And I can give you some personal experience. We pride ourselves on being by the book. We preach that always. By the book, no exceptions. I tell people, "You don't like the rules, call your congressman. But we are going to follow them, regardless."

Our scores were all very good, and getting better, except for crash.

Mr. GIBBS. Except for what?

Mr. KRETSINGER. Crash.

Mr. GIBBS. Oh, crash. OK.

Mr. KRETSINGER. So we were having crashes. We have had some bad winters. Some of those were preventable by our driver, and some were not. Some were car rear-ending our trailer. But we saw an audit coming. We know that. It is very good for focusing resources, Federal resources, on audits.

But, any rate, they came in, they audited us, spent 3 or 4 days. And at the end of all that, except for two or three minor violations, we were compliant. And so, what is the end of this story? "You are compliant." I don't see where that changed much.

Attorneys have become very creative at chasing money. And one of the things they have done is, through brokers and shippers, under a negligent entrustment theory, or negligent supervision—so they have made these folks very nervous for CSA scores, something they don't have a lot of control on. So, I mean, it is——

Mr. GIBBS. Excuse me. I have also heard that a trucking company can be, depending on the size of the business and the number of truck and different categories—and I had one trucking company tell me they got moved—they had a—they were at the top of the one category and then they got shifted in the other category. And nothing changed, other than to get shifted in the category, and their CSA went really bad. Is that——

Mr. KRETSINGER. Yes, we don't understand that. I mean one month our crash score was good, and next month it was high. We got audited, still on our record, it is now good again. I don't know why.

I also would point out that these other CSA alerts are supposed to predict a crash. Our other scores are great. So they are out of joint. I don't think it is accurate.

Mr. SCHNAUTZ. On the—speaking of predicting a crash, the driver fitness basic is actually counter to predicting a crash, and that has been shown by the FMCSA data. Our company, like many oth-

ers, is misrepresented by our CSA score. Our crash rate is better than industry average, and our out-of-service rate is better than an industry average. So those two key metrics were safer than industry average.

However, if you look at our CSA score, we don't look better than industry average. And it is because of the lights I mentioned earlier. It is easy money for an agency, for a jurisdiction, to pull a truck over that has one light obviously out, write the ticket, let him go. So that is a big disconnect. The revenue has—drives this a lot, and we all here follow the money.

Mr. GIBBS. OK. I am almost out of time, I want to ask one more quick question. In my subcommittee dealing with the waters of the United States rule, I mean, we have heard lots of testimony where the EPA did not engage the stakeholders or the States, and all that. Do you feel that FMCSA engages with the industry effectively, and also determines the impact of their regulations on especially small carriers?

Mr. SCHNAUTZ. Absolutely not. No.

Mr. GIBBS. Anybody else want to respond? Mr. Scott?

Mr. SCOTT. Thank you. I would say absolutely not. It is a hostile environment. And there was a time when FMCSA would work with the industry, and those days are long gone.

Mr. GIBBS. Thank you. My time has expired. Thank you, Mr. Chairman.

Mr. GRAVES OF MISSOURI. Mr. Davis?

Mr. DAVIS. Thank you, Mr. Chairman. Thank you to all our witnesses.

First question that I have is for Mr. Kretsinger. You raised the idea of a gold standard program to have fleets voluntarily adopt innovative safety tools that would enhance safety. I believe, too, safety is paramount. And this idea of a gold standard program is actually pretty intriguing.

Can you offer some thoughts on what this program would look like, and how it could improve safety in the near and the long term?

Mr. KRETSINGER. Certainly, and thank you, Congressman, for that. There is a lot of cool technology coming out, you know. You have heard of some of it. What is it going to be in 2 years? It is a rapidly evolving thing. But these are tools that cost money, that are voluntary, and can have a big impact, if you combine that with, you know, driver counseling and coaching and the other things.

So, a lot of members of ATA have gone out and spent the money on these things, even though they are not required by any Government to do it, because they see that it is good business and the right thing to do to be safe. That is what we all want.

So, I think, if the Government was able to do something like help them on other areas if they do this, that provides incentives for more and more to do it. And I think the cumulative effect would be a lot more safety.

Mr. DAVIS. Well, thank you very much for your response to that.

Moving on to a different subject, I think it is very important to make sure we are focusing on the most effective ways to actually reduce and prevent traffic incidents. In your testimony you point out that FMCSA's report shows that more than four times as many

crashes are prevented because of traffic enforcement in comparison to standard roadside inspections, and yet traffic enforcement only makes up about 10 percent of field enforcement interventions, with that percent dropping, of course, as we know, in recent years.

I agree, too, that this is concerning. And I know that the ATA is not advocating for a specific solution on this disparity, but I would ask you broadly, how can we achieve a better balance here?

Mr. KRETSINGER. I think what the focus ought to be is on the cause. And the cause is driver behavior. Not only the behavior of the truck drivers, but, even more so, the behavior of the passenger drivers. But so much of our problem is caused by something they do or they don't do. If you can impact that, you are going to have a greater impact on all of our goal, safety, than if you are spending your money on things that don't, like many of the things that happen in the scale house don't cause wrecks.

So, if we can funnel our resources, our money, our people towards the things that do cause wrecks—and on these event recorders, we are seeing it. I mean, we are—it is kind of a picture paints a thousand words. It is following too close, it is distracted driving, it is not looking far ahead, it is people in the public not understanding how to drive safely around a big 18-wheeler going down the road at a high speed.

If we can get to that, you will make a big impact. Whether a mud flap or a crack in the windshield or one light out, those things are important, but they are not going to have near the impact as behavior.

Mr. DAVIS. Well, thank you. Thank you for your responses.

Mr. Byrd, thank you also for being here today and testifying. I am a strong supporter of workforce training efforts. I believe they are a key part of creating and also maintaining jobs. As a matter of fact, I am once again introducing a bill that would make it more flexible for people to access unemployment benefits and not be punished if an antiquated system hasn't approved specific training, so that we can get people into jobs and employ more people.

You mentioned in your testimony the efforts at FMCSA to expand entry-level driver training. How have your interactions with FMCSA been on this regulation?

Mr. BYRD. Thank you for the question, Congressman. We have participated in the entry-level driver training advisory committee, along with other stakeholders, since late February. I think that, overall, the experience has been very positive. I think that the stakeholders—you know, unions, motor carriers, et cetera—have had a really great opportunity to have input. We think that the agency is listening to us, and hopefully, you know, at the end of the process, we will be able to come up with a reasonable proposed rule that will be acceptable to the motor carrier industry and the drivers.

Mr. DAVIS. Well, thank you. My time has expired.

Mr. GRAVES OF MISSOURI. Mr. Hardy?

Mr. HARDY. Thank you, Mr. Chairman.

Mr. Scott, I would like to probably address you first on this one. It has kind of been addressed already, but being a previous business owner myself—that is one of the reasons I came to Washington, is that I don't believe my children have the same opportuni-

ties today to start a business, expand a business, and grow a business to employ, which I have had the opportunity.

You talk about in your testimony that you don't believe that somebody could start that business today with regulation. You talked about insurance. Is there any other regulations that you feel that might be—the Federal Government might be holding back from that opportunity that we should provide, as——

Mr. SCOTT. Well, we could certainly lower taxes.

Mr. HARDY. Any others?

Mr. SCOTT. Well, the—our industry is, obviously, most heavily regulated by the Federal Motor Carrier Safety Administration. However, you know, what we have seen in the course of the 30 years that we have been in business it that it is what I will call mission creep, what seems like from just about every Federal agency that has purview over what we do, whether that is OSHA, whether that is HHS—I mean you can go down the list of them.

I think that the regulatory burden in general is—it just seems to be one of "got you" from just about every agency that there is out there. I mean the one that myself and our industry is feeling—the motorcoach industry, as well as the other folks up here on the truck side—is just that weight right now that we have coming from FMCSA that doesn't really seem to be accomplishing much of any goal. So that is really kind of the number one.

But it seems that, you know, mission creep from just about every other agency—I mean we have actually been audited by TSA. I mean it just seems like there is just this never-ending, you know, envelope of Federal regulations that just seems to be coming around us, and it just doesn't seem to be stopping. So, I would say, pretty much everything.

Mr. HARDY. OK, thank you. Mr. Kretsinger, Mr. Schnautz, I would also like to address this to you—and you kind of hit on it—as a business owner myself, those incidents that—in the construction industry that we encountered—as you know, in the construction industry you spend a lot of time on inner streets, you spend a lot of time within large communities like the Las Vegas area, and other. We found that that aggressive driver, in the majority of the cases, was usually the fault. And, like I say, we end up getting hit with the insurance, we get hit with those regulations.

And I have known throughout my career many, many individuals who have been recognized for being million-mile or 2-million-mile drivers without any incidents, which is amazing to think that you could do that, in the first place. Do you feel like—that some of these restrictions are starting to maybe cost those good drivers down the road, either one of you?

Mr. SCHNAUTZ. Absolutely. You mentioned aggressive drivers, and that is a good counterpoint, is that some truck drivers aren't safer, just because they have technology. And it comes down to the driver. We can't use technology as a replacement for a good driver.

But, yes, drivers and me, as a driver, often felt like I was a target. If I stopped on the side of the road and I got hit, it was going to be my fault. If I turn down a road to try to pull into a Stop-and-Go to get a Coke, maybe that is a no-truck street. So every time we do this, we force the driver into every narrower lane, where he or she can exist and do their jobs. And it is not the same

as it was when I was growing up with my dad in the trucks, back in the seventies, whenever many of those regulations didn't exist, or weren't enforced at all.

So, whenever we do that—and I hear it from our drivers regularly, our veteran drivers, especially, that whenever ELDs come in, they are just going to leave, or when this happens, or when that happens.

Mr. KRETSINGER. I would just say that one thing we look at all the time, and the industry does, is driver shortage. I mean there—it is a problem. Everyone in the industry lists it as their number-one problem. And there is a lot of factors that go into that. Some of it is regulation, some is congestion. Some is it is a job that is not for everyone. So, I don't think it is any one thing. I think it is more of a cumulative impact.

Now, the old cowboy trucker of 10, 20 years ago, he'd get in his big-hood truck, go down the road, he had no idea what he was doing. He would be out a long time, and come back. Now, with data, there is so much technology in the engine, in the ELDs, in the things we are doing, that they are really not alone any more in that truck. It does give a good measure of control for safety, but it also takes away some of the independence, which was the allure to these people for many years.

Mr. HARDY. Thank you. I see I am out of time.

Mr. GRAVES OF MISSOURI. Mr. Ribble?

Mr. RIBBLE. Thank you, Mr. Chairman.

Well, it has been a long afternoon for all of you. Thank you for being here. I know that there are some guests in the room that have photos of loved ones that have either been killed or injured in crashes, and I want you to know that we take those concerns, and—very seriously, to try to figure out how in the world we can do a better job here, so there is less of that there. And I appreciate you coming. And certainly my deepest condolences.

I would like to maybe start with Captain Reese. Do you believe, Captain, that it would be safer, our roads, highways would be safer, with fewer big trucks than more big trucks?

Mr. REESE. I don't really have any data, one way or the other, to say that. I will just say that CVSA's stance on size and weight on larger trucks has always been a safety one. And we don't want to see anything done on that until this study comes out, and we don't want to see an increase in size and weight until we can be sure everything can be done safely.

Mr. RIBBLE. It just seems to me that, obviously, minutes of exposure, the amount of time a driver is on the road versus time that a driver is not on the road, the driver not on the road is safer than the driver on the road. It just seems to me. Would you agree, at least agree with that?

Mr. REESE. Oh, absolutely.

Mr. RIBBLE. Mr. Kretsinger, would you agree with that?

Mr. KRETSINGER. I would say you would have no wrecks if nobody turned their engine on.

Mr. RIBBLE. Got it.

Mr. KRETSINGER. But you would have no economy, either.

Mr. RIBBLE. Of course, of course. But, I mean, there is a line here that you draw at some point.

Mr. KRETSINGER. Yes.

Mr. RIBBLE. Right? We heard earlier a discussion from Mr. Barletta about the idea of heavier trucks riding on city and town and rural roads and State roads, as opposed to the interstate.

Mr. Byrd, in your testimony you mentioned an exemption that my State, Wisconsin, received that you opposed. They didn't really get an exemption. The current weights of trucks that were currently driving on a U.S. highway when it becomes an interstate were grandfathered to an interstate highway. What would have happened, had that grandfather not happen, is those trucks would often have been redirected off the interstate, where it is much safer, to the county and city roads that you later—earlier testified in your testimony that you oppose.

And so, it almost seems like you are contradicting the very same thing—the very thing that you hope to get at, would be to keep the heavier trucks on the interstate and off those roads. And I would encourage the Teamsters to reevaluate that position, because you might actually end up working against your own best self-interests.

Mr. Reese, if you could, just for a moment—I am going to ask your permission, sir, to maybe take off your CVSA hat for a minute, and talk to me a little bit about Idaho. You are from Idaho, a State patrolman from Idaho. And they have experience with heavier, multiple axle trucks, and have had for several years. I understand that Idaho allows trucks to carry up to 129,000 pounds on multiple axles. Has this worked out well for the State? And do you have concerns about seeing other States moving into a similar direction?

Mr. REESE. Now, we ran a project for about 15 years, a pilot project in a southern part of our State, and we did allow vehicles to go up to 129,000 pounds. At the end of that pilot, we deemed that project a success. I will emphasize that these vehicles had more axles, they were able to bridge the weight because the damage to the roads was obviously a concern.

And we are in the process right now of making that project go statewide, and we are moving it to the panhandle, which has a much different road system. And, as we do this, we are adding some additional safety requirements. We are in the process now to permit these loads. Some of the things we are looking at is a minimum number of years of experience for drivers who participate, because we don't want new drivers operating these bigger loads. They need to have the long combination vehicle training that is in the FMCSA's regulations. Safety-related things like that, because if we have these bigger loads on the road, we want them to be safe.

Mr. RIBBLE. Yes, certainly. And, hopefully, if there—if, in fact, those heavier trucks were there with more axles, more displaced weight that—stopping capabilities being the same, the reduction in the number of vehicles—which goes to my earlier question—the potential reduction in the number of vehicles and exposure on the road wouldn't necessarily go down, because weight is distributed across fewer vehicles.

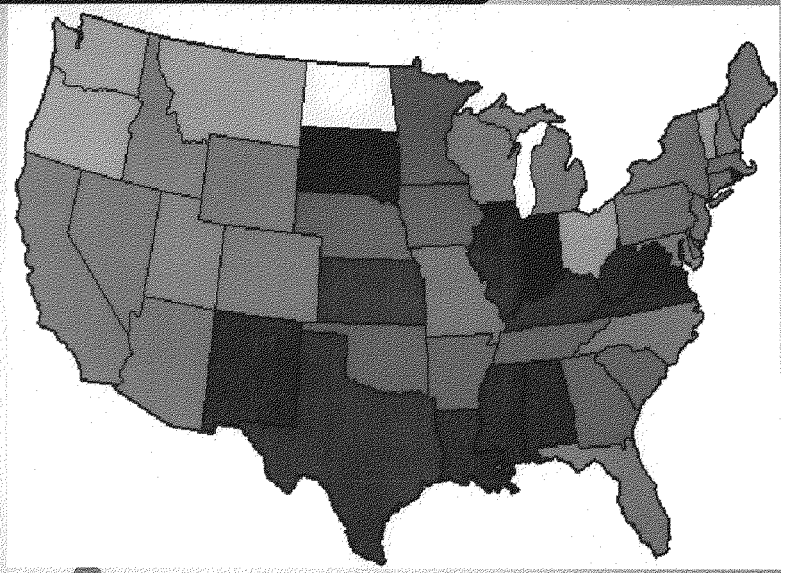
Mr. Chairman, I would like to ask unanimous consent to insert into the record a study released by the Federal Motor Carrier Safety Administration last year. The study found that a six-axle,

97,000-pound truck stops just as quickly as a five-axle truck loaded at 80,000 pounds. And I think it is important information to have.

Mr. HARDY [presiding]. Without objection.

[The information follows:]

Max Weight 5 Axles



Florida, Wyoming, & Michigan – Allowed up to 122,000 on 5 axles.

NY & NJ – Allowed up to 126,000 on 5 axles.

Massachusetts & Connecticut – Allowed up to 128,000 on 5 axles.

Mississippi – Allows more weight depending on axle spacing's & routes.

Wisconsin – Allowed up to 142,000 on 5 axles.

Legend

- 92,000
- 96,000
- 98,000
- 100,000
- 102,000
- 104,000
- 106,000
- 108,000
- 112,000
- 116,000+

Heavy Overweight Brake Testing

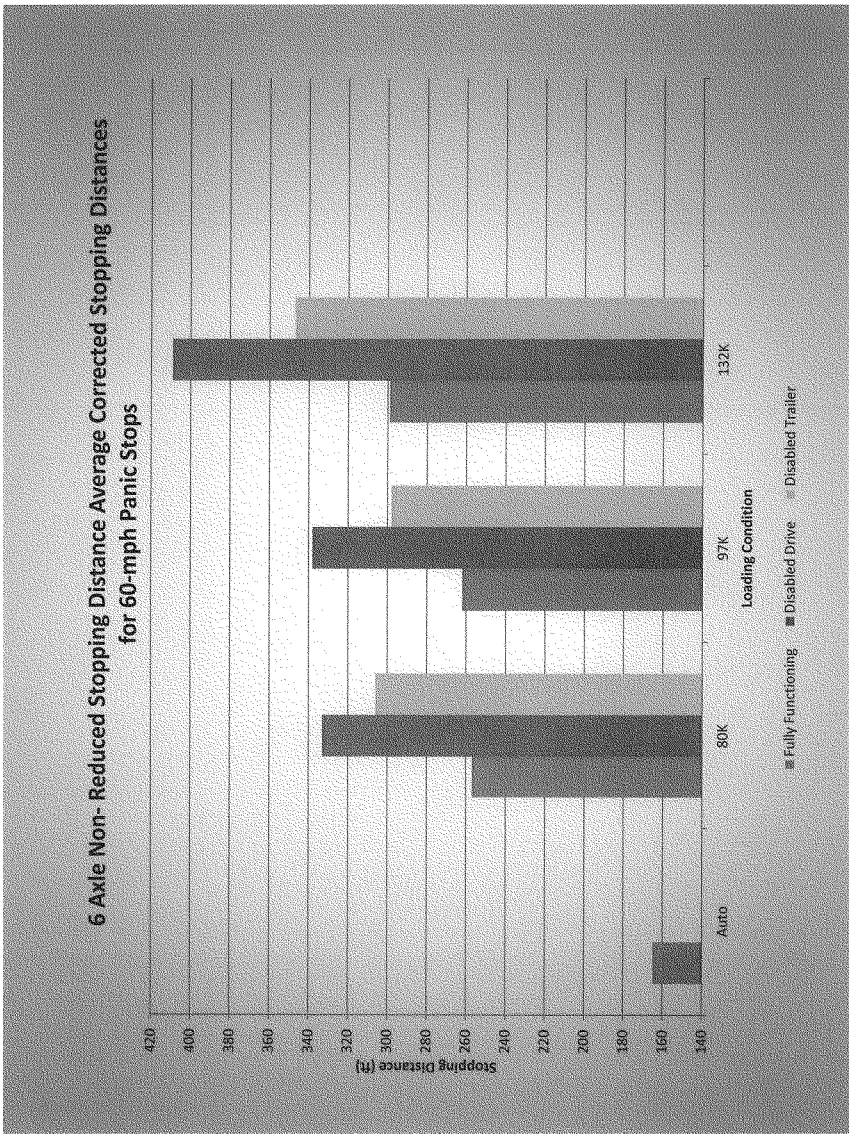
- Impact on brake performance with increasing load

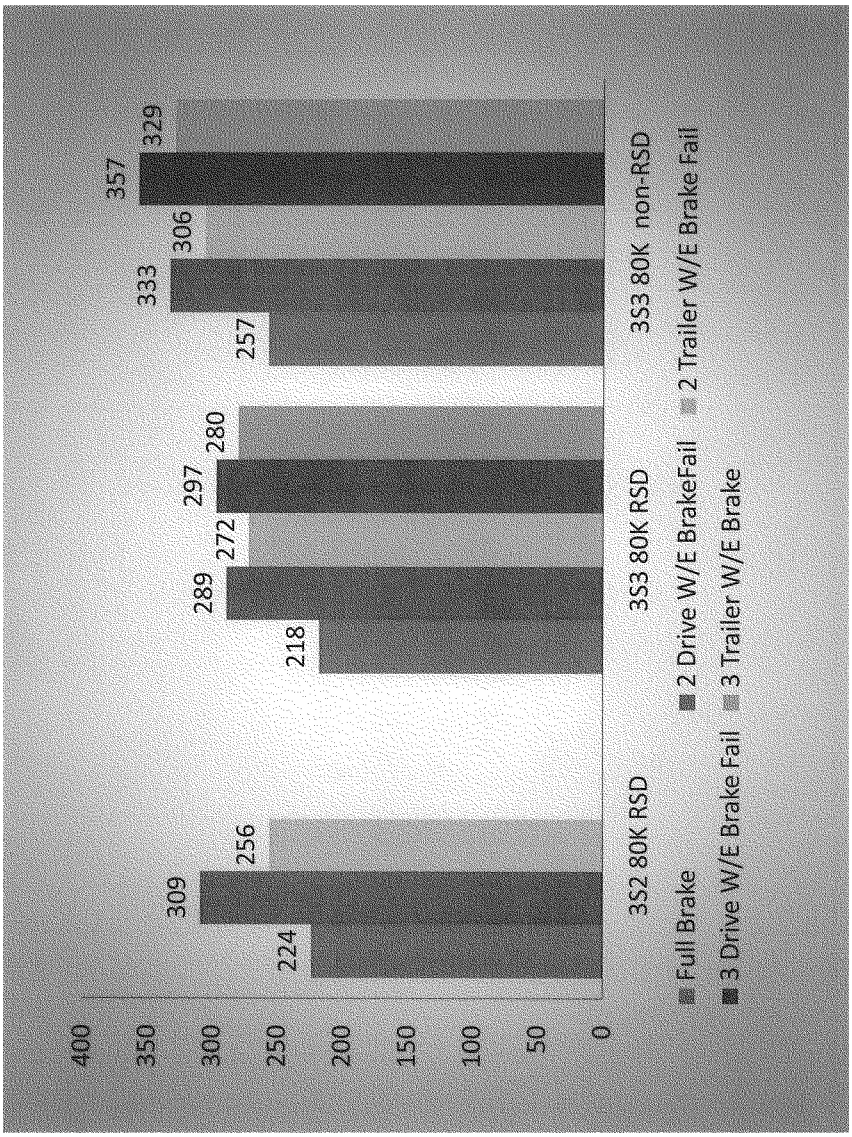
- Impact on brake performance with brake degradation on tractor and trailer (20%)

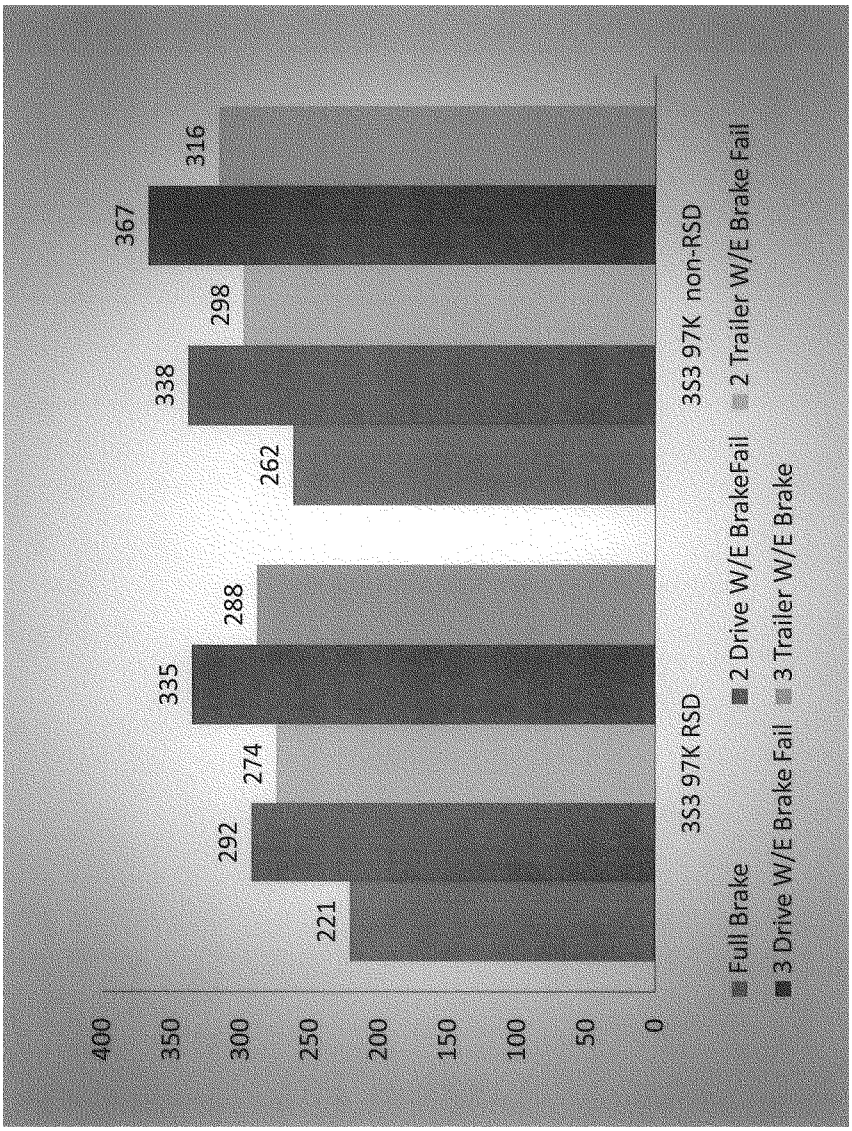
FY 2013/14 Testing

- 6 Axle Tractor/Semitrailer
- Reduced Stopping Distance Tractor Test
- Re-ran with non-RSD Brakes Installed
- New brakes/drums/tires
- FMVSS 121 burnish
- 20 mph, 60 mph
- Best Effectiveness
- 2 brakes out trailer/3 brakes out trailer
- 2 brakes out tractor/3 brakes out tractor
- Steer Axle brakes out

Max Weight 6 axles
Nebraska – 102,000 on 6 axles.
SC – 107,000 on 6 axles.
West Virginia – 108,000 on 6 axles.
NC, SD, & OR – 119,000 on 6 axles.
Texas – 117,000 on 6 axles.
NM – 118,000 on 6 axles.
MS – 123,000 on 6 axles.
Georgia – 125,000 on 6 axles.
New York – 126,000 on 6 axles.
FL & UT – 127,000 on 6 axles.
Massachusetts – 128,000 on 6 axles.
Maine – 134,000 on 6 axles.
Wisconsin – 142,000 on 6 axles.
Legend
100,000-108,000
116,000-119,000
109,000-110,000
120,000
112,000
122,000+
113,000-114,000
132,000+


6 Axle Non- Reduced Stopping Distance Average Corrected Stopping Distances for 60-mph Panic Stops
Stopping Distance (ft)
420
400
380
360
340
320
300
280
260
240
220
200
180
160
140
Auto
80K
97K
132K
Loading Condition
Fully Functioning
Disabled Drive
Disabled Trailer


400
350
300
250
200
150
100
50
0
224
309
256
218
289
272
297
280
257
333
306
357
329
3S2 80K RSD
3S3 80K RSD
3S3 80K non-RSD
Full Brake
2 Drive W/E BrakeFail
2 Trailer W/E Brake Fail
3 Drive W/E Brake Fail
3 Trailer W/E Brake


400
350
300
250
200
150
100
50
0
221
292
274
335
288
262
338
298
367
316
353 97K RSD
353 97K non-RSD
Full Brake
2 Drive W/E BrakeFail
2 Trailer W/E Brake Fail
3 Drive W/E Brake Fail
3 Trailer W/E Brake

Questions?

Luke Loy, Sr. Engineer
FMCSA Vehicle and Roadside Operations Div.
Luke.Loy@dot.gov

Mr. RIBBLE. All right, thank you. Thank you very much.

I realize that discussion about truck weights and safety, sometimes these things can get very, very complicated, and often heated, where they don't actually have to be. We are all trying to get to the same place. We want to get to the same place the right way. And so I want to thank you all for your testimony today. You guys did terrific, all of you. And so thank you for being here. And with that, I yield back.

Mr. HARDY. Thank you. Mr. Mica?

Mr. MICA. Well, thank you. Sorry, I came a little late. This is the day of dueling hearings.

Somebody said Mr. Scott might have an answer for me. But in some previous hearings I have mentioned that I have run into some people in the trucking industries that have told me that we are doing it all wrong, that, you know, the logs or the Governors or whatever you have got on these vehicles, all that can be compromised, or may not be as effective.

But again, one of the individuals described to me that there is a device that you can have someone look into, it looks at the pupils, the eye, and can tell whether someone is fatigued. And he says that is the technology we need to be going to. Mr. Scott, are you aware of anything like that?

Mr. SCOTT. Well, thank you, Congressman Mica. I have heard of that. I don't have any——

Mr. MICA. See, and I brought it up a couple times as we discuss these things. Everybody says they have heard of it, but nobody has gotten to that technology. I pulled a couple of articles. There are other—there are some things that Caterpillar is using, and here is a Nissan driver attention detector, but this—these are not that kind of thing.

What I am interested in is when we pull over a driver, you have him look into that, we have him blow into a—you know, a device to find out if they are intoxicated. But I am told the technology exists. Now, I want somebody to come back and let us know if this is real or not. Can you look into it, let us know?

Who else is in a position to check this out? Has anyone else heard of this?

Mr. SCHNAUTZ. Our association has heard of it, but there is no concrete information behind it, not enough experience to know if it has any value or does any good. Most things like that have—can be shown to have a good track record before they are really put into use. And the best thing is a driver that is experienced and motivated to do the right thing.

Mr. MICA. We don't have anybody from the highway, do we, on this panel?

[No response.]

Mr. MICA. Federal Highway Administration? No? No.

Well, again, the industry needs to help take a lead in finding technologies. And if this technology is out there, and it does seem like it is plausible, that you could have a device like this, the biggest issue we still have with these big—the big crashes is fatigue and driver drowsiness, and some of those factors. Isn't that still one of our biggest causes of the accidents, guys? Everybody?

Mr. SCHNAUTZ. Actually——

Mr. MICA. Let the record reflect three out of five nodded their head yes. OK, good.

Mr. SCHNAUTZ. Actually, it is just driver behavior. Whether it is the car or the truck, as we said earlier, and just a bad decision, maybe trying to take an exit at the last minute, following too closely, things like that we see quite a bit. So it is just driver decision-making, not necessarily fatigue being the top item.

Mr. MICA. Do you have a—and I guess there is American Trucking Associations. They are not here. But I just wonder if there is an association. And you got labor here, too, who should be concerned. Yes, sir?

Mr. KRETSINGER. Yes, Congressman. I am representing ATA. And a couple things I would offer. One, I think they have some information on some of this technology that they would be happy to provide. I would also offer that one thing that is becoming more prevalent in the industry is event recorders.

Mr. MICA. Is what?

Mr. KRETSINGER. Event recorders. And event——

Mr. MICA. Oh, event recorders, yes.

Mr. KRETSINGER. Yes. And this is a camera——

Mr. MICA. Yes.

Mr. KRETSINGER [continuing]. That points out, and also in towards the driver——

Mr. MICA. Well, the vehicles now, today—I have been renting some cars lately, and, my God, I move slightly towards another vehicle, I mean, there is great alerts because you—my biggest hazard in driving is that blind spot. And when I don't have my wife next to me, screaming, "You're going to hit"—you know—but now you have got this. It is incredible, the devices, and we will get there, with vehicles.

But I would like you all, somebody from American Trucking Associations, go back and look at this. I will see if I can find the individual—and they told me the military had used some of this to test the fatigue of troops and things, and it was fairly valid. But we need to be looking at those kinds of technologies for safety enforcement.

You know, you don't want to burden the truckers with too much technology, but there are devices that can save lives and be cost effective. So we just need to stay ahead of that game, because, again, maybe that is because I am getting older, but I was just with a—on one of the interstates with the double trailers in rain, and it was pretty hairy. And if they get drowsy or, you know, lose their place for a minute, we are all toast. So we got to do a better job for safety for the future.

Thank you, Mr. Chairman. Yield back.

Mr. HARDY. Any other Members?

[No response.]

Mr. HARDY. If—don't see any other Members. I would like to follow up just a bit with the direction I was headed earlier, on questioning. This might be for Mr. Reese.

As you know, in the West, and particularly Utah, they have done some studies on their highways and other areas of—where they have actually increased the speed limits, tested up to 80 miles an

hour. And it is—I believe their results were positive, that they actually have had less traffic incidents.

With some of the restrictions to—holding trucks to 65, would it be better that maybe that be held within the State's purview of how those trucks move? Because it is back to that aggressive driver, that slower truck moving on a freeway. Any comments on that from your side, Captain?

Mr. REESE. That kind of goes down the line of speed limiters. And right now we are waiting to see what FMCSA's—what they come out with on speed limiters. But the States do have various speed limits. We just raised on our—some of our interstates in Idaho last year we raised to 80 miles an hour for cars, and 70 for trucks. So we still have some variance there.

But you have also got the variances in geography and stuff from State to State and area to area, as well. And that affects truck operations, as well. Areas like Idaho, where we have a lot of hills, the trucks slow down anyway on the hills.

Mr. HARDY. Thank you. Are there any further questions from members of the subcommittee?

[No response.]

Mr. HARDY. Seeing none, I would like to thank each witness for their testimony today. And your contribution to today's discussion has been very informative and helpful.

I would like to ask unanimous consent that the record of today's hearing remain open until such time our witnesses have provided answers to any questions that may be submitted to them in writing, and a unanimous consent that the record remain open for 15 days for additional comments and information submitted to—by Members or witnesses to be included in the record of today's hearing.

[No response.]

Mr. HARDY. Without objection, so ordered.

If there are no further Members having anything more to add, the subcommittee stands adjourned.

[Whereupon, at 4:28 p.m., the subcommittee was adjourned.]

ELIZABETH H. ESTY

Statement for the Record
Subcommittee on Highways and Transit Hearing
"The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation"

April 29, 2015

Thank you, Chairman Graves and Ranking Member Holmes Norton for holding this hearing on commercial motor vehicle safety. Our transportation system is only as good as it is safe to use. It is important we acknowledge the role the federal government has in ensuring the safety of our roads and fostering innovation in motor vehicle safety.

Just today, I met with ORAFOL Americas, which operates a plant in Avon, Connecticut. ORAFOL produces reflective materials vital to traffic safety. They showed me a graph that illustrated how as our investment in transportation safety programs has increased, traffic fatalities have decreased. It is clear that transportation safety programs save lives and deserve our robust support.

Another issue that deserves more of our attention is the importance of transportation infrastructure to our national security. Not only do we need efficient and well maintained transportation systems in the event of emergencies or natural disasters, but we rely on our roads and infrastructure to provide the goods that keep our families healthy and safe every day.

Mr. Kretsinger, I understand the American Trucking Association has looked into the grave consequences that could result from a national stoppage in truck traffic. In Connecticut, we rely on trucks to supply our food and medical supplies. Connecticut manufacturers rely on trucks to deliver components and ship their products to market. Will you elaborate for the committee on the impact that a stoppage in truck traffic would have on Connecticut and the entire nation?

Mr. Schnautz and Mr. Scott, both of you shared concerns regarding the FMCSA's Compliance, Safety, and Accountability (CSA) program. I understand your concern is partially that the CSA program fails to adequately weigh the severity of

violations leading to potentially inaccurate conclusions regarding a carrier's safety record. I think we all would agree, however, that consumers should have access to information that allows them to make the most informed choice possible in the interest of safety. How can we improve the data to ensure a system that is both fair to carriers but still provides the public with the information they need to make safe and informed decisions?

Statement of

DANNY SCHNAUTZ
PROFESSIONAL TRUCK DRIVER AND MEMBER,
OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

Before the

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS & TRANSIT
U.S. HOUSE OF REPRESENTATIVES

Regarding

The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation

APRIL 29, 2015

****

On behalf of

Owner-Operator Independent Drivers Association
1 NW OOIDA Drive
Grain Valley, Missouri 64029
Phone: (816) 229-5791
Fax: (816) 427-4468

Chairman Graves, Ranking Member Norton and distinguished Members of the Subcommittee, thank you for inviting me to testify on matters of importance to our nation's truck drivers and the tens of thousands of small business trucking professionals who are members of the Owner-Operator Independent Drivers Association (OOIDA).

My name is Danny Schnautz, and I have been involved with trucking literally since birth, as my first ride in a tractor trailer was with my father at three days old. After working part-time as an intrastate driver while in high school and college, I spent more than three years as a full-time truck driver. During this time, I hauled freight of all types across the lower 48 states, pulling vans, flatbeds, and intermodal containers. I still hold an active Commercial Driver's License with all endorsements from the State of Texas.

For the past 25 years, I have worked in the field of trucking operations and management. I currently serve as Vice President of Clark Freight Lines, Inc., a Pasadena, Texas-based company with 170 drivers and power units plus hundreds of trailers. I am also an active commercial/instrument airplane pilot, a licensed Texas Peace Officer for 23 years, and currently a Captain in the Harris County (Texas) Sheriff's Office Reserve. In May 2010, I was appointed to the Federal Motor Carrier Safety Administration's Motor Carrier Safety Advisory Committee.

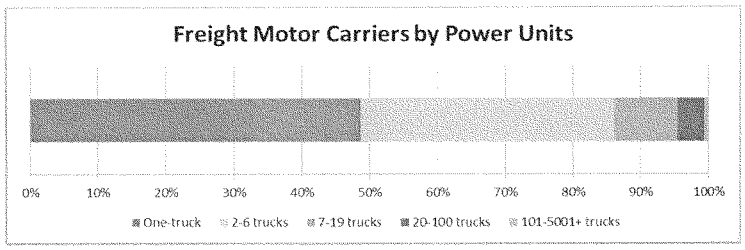
OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small business truckers. The more than 150,000 members of OOIDA are small business men and women in all 50 states and every Congressional district who collectively own and operate more than 200,000 individual heavy-duty trucks. The average small business trucker has driven more than 20 years and 2 million accident-free miles.[1] To put that in perspective, the average passenger car driver would need to drive for at least 150 years to reach that level of experience and safety out on the highway.[2] They are professional drivers in the truest sense of the word, and are committed to supporting their families through the safe operation of their small businesses.

As you may know, OOIDA members and their small business trucking peers make up the overwhelming majority of the trucking industry, especially in the long-haul segment. Trucking is a small business industry, with nearly 90 percent of all carriers having fleets of six trucks or less, and roughly half of all interstate carriers being one-truck, one-driver operations, according to data from the Department of Transportation. Any policies that are disadvantageous to small business truckers or otherwise target them would have potentially large negative economic impacts for all Americans, as trucks move close to 70 percent of our nation's freight.

---

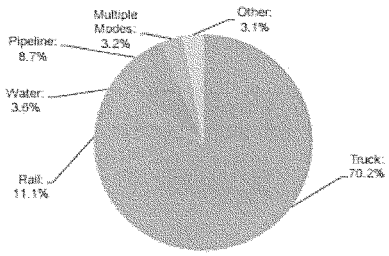
[1] OOIDA Foundation, Inc., Owner-Operator Member Profile 2014, http://www.ooida.com/OOIDA%20Foundation/RecentResearch/owner-operator-member-profile.asp.

[2] Based on the "Average Annual Miles Per Driver" of 13,476 miles driven per year as calculated by the Federal Highway Administration; see http://www.fhwa.dot.gov/ohim/onh00/bar8.htm.



In addition to general freight, OOIDA members and small business truckers frequently haul the loads that large trucking companies do not find advantageous to haul. Flatbed loads such as steel coils, construction materials and heavy equipment, refrigerated freight (especially fresh produce), and other specialized cargos are often moved by owner-operators and other small business truckers. OOIDA members and their peers are the connection for tens of thousands of companies, large and small, urban and rural to the global marketplace. It is estimated that small business carriers exclusively haul in the neighborhood of 40 percent of freight moved by truck in the United States.

1-13 Percent of Total Weight of Freight Moved by Mode, 2012



For so many of these companies, trucks owned and operated by small business truckers are their only competitive option to receive raw materials, equipment, and goods for sale, as well as to ship out finished products to customers. A healthy small business trucking segment—one where carriers are able to thrive and not just survive—is a good thing for our nation's economy. Many factors can put the health of small business truckers at risk: general economic forces, burdensome regulatory policies, and actions by large carrier competitors to use those regulatory policies for competitive advantage. Further, industry compensation practices, which by and large do not value a driver's time, force the individual driver to pay the cost of many of the inefficiencies within the goods movement system.

A TURNING POINT FOR COMMERCIAL MOTOR VEHICLE SAFETY

OOIDA appreciates the Subcommittee holding this hearing, as it comes at an extremely critical time for the future of commercial motor vehicle safety policy in the United States. In the minds of small business truckers, the Federal Motor Carrier Safety Administration (FMCSA) lacks a reasoned or coherent understanding of the key factors behind safety on our nation's highways. This has resulted in an approach where issues related to compliance with the letter of every single regulation drives policy and enforcement activities, instead of the carrier's or driver's crash history. This occurs even when a regulation likely has zero connection to highway safety.

To OOIDA's knowledge, despite the fact that the FMCSA spends somewhere between seven and nine million dollars a year on research, the agency has never conducted any research activity that has sought out motor carriers and professional drivers who do not crash, learned what they did that helped them have this stellar safety record, and then developed policies that encouraged such safety-focused actions. As someone with experience in other modes of transportation, I feel such an approach to highway safety is fundamentally flawed, and misses opportunities to achieve greater safety results at a lower regulatory burden, especially to small business carriers.

Instead, the agency makes a connection between any non-compliance with a regulatory requirement – no matter how small – and some level of causal relationship to the crash. This occurs no matter if the driver or motor carrier was at fault, even in clear no-fault situations such as when an individual decides to commit suicide by truck. The focus is on all regulations, including those that clearly have no impact on highway safety, such as form-and-manner issues with a logbook, if a license plate light is out, or other minor issues that have been in regulation for decades with no effectiveness review. The FMCSA has even divined an increased crash risk related to when a blanket is not present in a sleeper cab. Professional drivers know that the mere presence of a violation during a crash does not mean it had any role to do with causing the crash, and focusing on those violations instead of the actual cause of the crash is a huge missed safety opportunity.

This focus on a carrier or driver's compliance with each of the FMCSA's hundreds of regulations rather than the actual crash history of a carrier or driver is the genesis for many of the FMCSA's most recent, most costly, and most flawed regulatory and enforcement policies, including:

- **restrictive hours-of-service regulations** that, when combined with industry compensation practices, limit a driver's ability to make safety-focused decisions;

- **development and implementation of the Compliance, Safety, Accountability (CSA) program**, which inaccurately and unfairly paints safe small carriers as unsafe, reducing their access to business and opening them up to additional enforcement activities, while carriers that crash more frequently are all but ignored;

- **advancing regulatory mandates such as electronic logging devices (ELDs) and speed limiters** that cannot be justified through safety improvements and/or have significant negative safety implications; and

- **focusing on technologies over trained and/or experienced drivers** who have a strong record of not getting into crashes.

A carrier following the FMCSA's playbook: speed limiters, ELDs, and other steps can have a fantastic *compliance* record, but can still have a horrible *crash* record. The FMCSA's own data shows this to be the case, especially with some of the nation's largest motor carriers – motor carriers who frequently make public statements that they are safety leaders and come before Congress and the FMCSA arguing for more costly mandates on the entire industry. As the CEO of a major motor carrier recently stated: "We were compliant, and we were legal, but we weren't safe."[3]

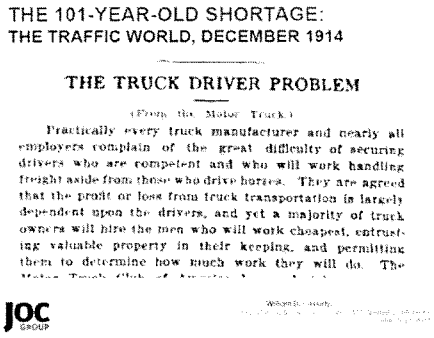
This represents a seriously flawed path forward for motor carrier safety, especially when considering the many other forces impacting the industry. One of OOIDA's greatest concerns is that the FMCSA's focus on regulatory compliance – and the issuance of even more regulations in the aim of improving compliance with those regulations – will prove too costly and burdensome for many experienced small business truckers with millions of miles of crash-free driving records. These individuals and small carriers will be priced out of the industry, removing the safest drivers and carriers that trucking needs to retain.

Even more concerning, it loses sight of the broader goals of commercial motor vehicle safety policy, which is to reduce crashes. At some point, more and more regulations and enforcement actions end up having the opposite results on highway safety, as drivers worry more about complying with minor regulatory requirements and government micromanagement of their operations instead of focusing on actions that actually have an appreciable impact on improving highway safety. Even more worrisome, does a *compliance-focused* system allow carriers who crash to "game the system" and look good on a compliance basis, while actually having poor performance on the road in terms of crashes?

Further, compliance-focused actions could result in unintended consequences that lead to crashes. Indeed, one could argue that this past summer, where several high profile crashes involved trucks operated by drivers for companies that have multiple layers of technology to ensure regulatory compliance, saw the beginning stages of those opposite results. A driver focused on ensuring that they do not go one second over an hours-of-service limitation speeds while in traffic, or a driver with decades of accident-free experience is forced out of the trucking industry by a medical examiner over fears of sleep apnea, even though a driver's personal

[3] *Fleet Owner*, "Paying by the Mile Caused Fatigue, Crashes and Fatalities." April 24, 2015, http://fleetowner.com/driver-management-resource-center/paying-mile-caused-fatigue-crashes-and-fatalities.

physician does not deem the driver at risk. In many situations, professional drivers are operating safely in spite of regulatory requirements. These are not steps forward for highway safety.


THE 101-YEAR-OLD SHORTAGE:
THE TRAFFIC WORLD, DECEMBER 1914

THE TRUCK DRIVER PROBLEM

(From the Motor Truck.)

Practically every truck manufacturer and nearly all employers complain of the great difficulty of securing drivers who are competent and who will work handling freight aside from those who drive horses. They are agreed that the profit or loss from truck transportation is largely dependent upon the drivers, and yet a majority of truck owners will hire the men who will work cheapest, entrusting valuable property in their keeping, and permitting them to determine how much work they will do. The

JOC GROUP

This focus on compliance comes at a time when trucking as an industry faces significant human resources challenges. This is not the driver shortage that so many large carriers continue to argue is looming. The very same arguments were made at the dawn of the trucking era. Instead, it is one largely of the mega-carrier's own making. The shortage in trucking is a shortage of individuals who will do the work of a truck driver – especially an over-the-road driver – while facing the risk that comes with the job and the employer and enforcement scrutiny for compensation that has not just remained stagnant, but has dropped in real terms over the past decades. According to transportation researcher Kenny Vieth, it's not a driver shortage, it's a driver-pay shortage. "Trucking is a hard job - and that won't change. But one thing you can change is to pay them more," says Vieth.[4]

Trucking also faces the prospect of significant generational change as many of the industry's most skilled and most experienced drivers will be retiring from the industry in the coming decades. This is a fact that is born out in data from OOIDA membership, where the average small business trucker is over 55 years of age.[5] This is why OOIDA is so supportive of establishing entry-level driver training standards. An unsafe driver can be compliant with the FMCSA regulations, and when compliance is the focus, these unsafe operations can slip through the cracks.

Despite what some may argue, so-called "safety technologies" are not a sliver bullet solution to these issues and challenges. In many cases and when looked at across the entire trucking industry, they may very likely make matters worse in terms of real highway safety. Use of technology should not be employed as an rationale to justify actions such as using lower-skilled or younger drivers, structuring driver pay in such a way that only those who will work for bottom of the barrel compensation will want to enter the trucking industry, or advancing requirements on an entire industry in the name of safety when no benefits, only costs, will be levied on the 80 to 90 percent of trucking that is small business.

---

[4] *Land Line*, "Wage War?." October 9, 2014, http://www.landlinemag.com/Story.aspx?StoryID=27802#.VTz_g9JViko.
[5] OOIDA Foundation, Inc., Owner-Operator Member Profile 2014.

Instead of today's focus on regulatory compliance, OOIDA argues that the best future for CMV safety begins with policymakers, enforcement officials, the truck and bus industry, and other stakeholders coming together to find the answer to an important question: what are the key factors behind CMV crashes? Once an unbiased, experience and data-driven answer to that question is arrived at, a new regulatory structure, one based upon addressing those key issues, should be developed. Such development should occur in a collaborative manner, focused on reducing crashes across the entire industry, and not pitting one segment of the industry against each other, or favoring one means to an end over another. New entrant drivers and carriers should meet a strong – but fair – standard, and the focus of regulatory and enforcement policy should be on the only outcome that matters: reducing at-fault truck crashes.

COMPLIANCE ALONE DOES NOT EQUAL SAFETY

Small business truckers have an inherent interest in supporting efforts to address safety issues caused by unsafe operators, whether they are motor carriers, truck and bus drivers, or passenger car drivers. We share the highways with these companies and motorists. That is why OOIDA supported the broad goal of the FMCSA's CSA program when it was first proposed in the mid-2000s. However, the FMCSA's development and execution of CSA has been fundamentally flawed, with negative impacts to small business motor carriers and highway safety. This can be seen in real-life CSA and crash data from a number of motor carriers.

Below is a comparison of average crash rates for eight of the largest truckload motor carriers and those of one-truck carriers based upon data from the FMCSA. Even at an average level, the crash rate for these large carriers on a per –truck basis is nearly double that of the entire fleet of one-truck owner-operator motor carriers. In some cases, the crash rate for a large carrier exceeds the owner-operator population by two-and-one-half times. Unfortunately, due to the FMCSA's "*compliance-focused*" approach to addressing highway safety, these carriers are largely under less scrutiny than a one-truck owner-operator or even a fleet like the one I work for, despite the fact that they have thousands of trucks on our nation's highways every single day.

Carriers	Power Units	Crashes in 12 month period	Crash Rate per 100 PU
8 "Mega" Truckload Carriers	79,218	7,526	9.5
National One-Truck Carrier	138,750	7,720	5.56

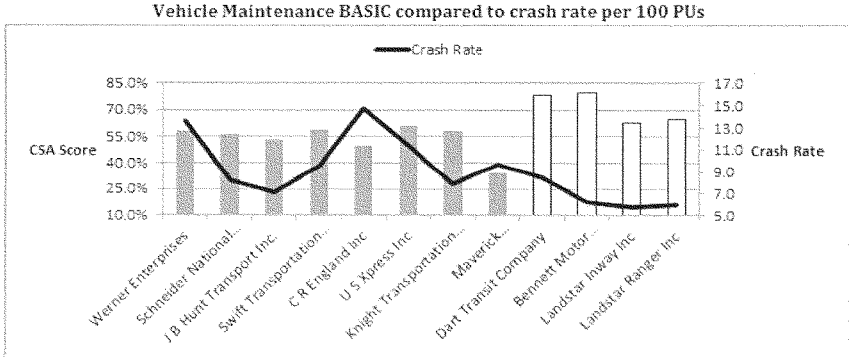
It is important to look beyond a straight comparison between "mega carriers" and small carriers. As such, the OOIDA Foundation analyzes crash rates and CSA's Safety Management System (SMS) "scores" under individual Behavioral Analysis and Safety Improvement Categories

(BASICs) for large carriers who largely use employee trucks and drivers (asset carriers) and large carriers that predominately contract with owner-operators (non-asset carriers).[6]

The scores under the HOS BASIC indicated that the asset carriers should be better safety performers both in terms of compliance with regulations and crashes. The average percentile score for the asset carriers was 23%, while non-asset carriers had an average score of 45.3%, with lower scores "better" under CSA. With asset carriers showing greater compliance with the HOS regulations, according to the FMCSA and CSA methodology, this should result in a better safety performance in terms of reduced crashes.

The OOIDA Foundation then compared the crash rate per 100 PUs and per 100 MVMT between the asset and non-asset carriers. In most cases, the asset carriers had a higher crash rate. Overall, the average crash rate per 100 PUs was 10.28 for asset carriers and 7.36 for non-asset carriers, whereas the crash rate per 100 MVMT was .10 and .08, respectively. Although the asset carriers have a better HOS Compliance score within CSA's SMS, their actual on-the-road crash rate is much higher.

Not only does this put into significant question the efficacy of many of the compliance focused measures taken by large carriers such as ELDs, but the analysis also calls into question the efficacy of the entire CSA program as a way to direct the resources of the FMCSA and state enforcement officials. This point is further highlighted by comparing asset and non-asset based carriers across another BASIC: vehicle maintenance (non-asset carriers are represented by the lighter bars on the right).



[6] OOIDA Foundation, Inc., "Examination of Publically Available Data from FMCSA on CSA Scores and Motor Carriers." November 25, 2014, http://www.ooida.com/OOIDA%20Foundation/WhitePapers/WhitePapers.asp.

It is not only OOIDA who have found fundamental flaws with the FMCSA's approach with CSA. While the FMCSA has recently argued otherwise, in a 2014 report, the Government Accountability Office stated that flaws in the CSA program resulted in the FMCSA identifying "many carriers as high risk that were not later involved in a crash, potentially causing the FMCSA to miss opportunities to intervene with carriers that were involved in crashes."[7]

A COMPLIANCE-ONLY FOCUS TARGETS SMALLER CARRIERS & REDUCES FOCUS ON SAFETY

OOIDA believes that a system needs to be in place that identifies high-risk carriers and intervenes in order to improve those carriers' safety practices or pull them off the road. That system needs to be accurate, and it needs to be fair. CSA is not that system. As noted by GAO, much of data flowing into CSA is inaccurate or misrepresentative and the methodology used by FMCSA to identify at-risk carriers is fundamentally flawed.

To put into context the flaws of CSA, especially when it is applied over the FMCSA's current regulatory and enforcement system, take the example of one of Clark Freight's trucks, which was inspected by a Texas State Trooper on April 15, 2015. The truck and chassis were in stellar condition, but my company received an "inspection violation" because the enforcement official determined that the decals for two digits of the truck's USDOT number were torn and un-readable. Instead of just a message to get the decals fixed or even a "fix-it ticket," the enforcement official issued a violation. Further, a readable DOT number has absolutely nothing to do with highway safety. No accident has ever been prevented because of a readable DOT number, and no accident has ever been caused by an unreadable DOT number.

CSA can also take something as simple as a logbook paperwork error and turn it into something that looks like a safety issue. Common sense dictates that filling out paperwork incorrectly does not indicate whether or not a truck is safe, but not according to CSA. Because CSA puts emphasis on compliance with almost entire DOT rulebook, carriers are forced often times to work on compliance with paperwork rules instead of safety. At our recent safety meeting at Clark Freight a few weeks ago, we had over 60 of our drivers in attendance. One of the main topics was addressing "form-and-manner" violations on logbooks, which are largely relics of when the trucking marketplace was under the regulation of the Interstate Commerce Commission, which ended in the 1980s. We spent time and money to work on proper completion of a form, rather than breaking down the preventative actions a driver should have taken to avoid a crash, highlighting proper following distance, ways to mitigate road rage, or any other topic that would actually relate to safety outcomes.

[7] Government Accountability Office, "Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers," February 3, 2014, http://www.gao.gov/products/GAO-14-114.

For many violations, no ticket or fine is issued by enforcement officials, yet the violation shows on the carrier's CSA information. This means carriers or drivers have no opportunity to challenge the validity or fairness of the enforcement officer's claims before a court. The only way I can challenge this violation is through a process called DATAQs, which in many cases puts the responsibility for reviewing challenged violations right back to the very enforcement officials that issued the initial violation.

The perception from violations like this is that we run unsafe trucks, regardless that the truck had all brakes working, more than thirty lights fully operational, no air leaks, 18 tires properly inflated and with tread, 100 lug nuts tight on the wheels, windshield clear, etc. These situations have a clear negative impact on motor carrier safety, as highlighted by the GAO:

> *"**A relatively small difference in the number of violations could change a carrier's status from 'insufficient information', to "prioritized for intervention**"*

> *"**A majority of carriers identified as 'high risk' by the FMCSA "did not crash at all**, meaning that a minority of carriers in this group were responsible for all the crashes. As a result, **FMCSA may devote significant intervention resources to carriers that do not pose as great a safety risk as other carriers**, to which FMCSA could direct these resources."*[8]

It also has an impact on the truck marketplace, especially when the trial bar gets involved. CSA scores, no matter how many disclaimers and explanations are provided by the FMCSA, are seen in and out of the industry as a reflection of an individual motor carrier's safety record. The GAO, the DOT's Inspector General, and other independent and industry observers have stated clearly that these scores under the current CSA methodology are inaccurate, and do not reflect a carrier's safety performance. Despite this, and the flaws within CSA, the FMCSA continues to make CSA scores public. The result is a system that publicizes negative and inaccurate data that unduly affects a carrier's ability to earn business. Contrary to popular belief, cases of inaccurate data are not outliers or isolated events; it is a big group consisting of businesses and drivers who suffer daily as a result of being wrongly characterized as unsafe. This problem of faulty data being made accessible to the public has been made even worse with FMCSA's introduction of a mobile phone app, QC Mobile.

An overreliance on compliance by the FMCSA also has impacts in the universe of motor carrier operations, as carriers are given less incentives by regulatory and enforcement to take actions that truly maximize highway safety. For instance, instead of ensuring that drivers are empowered to take rest breaks when they are tired, carriers are instead focused on maximizing the productivity of drivers. Another example is driver pay practices are also focused on maximizing driver productivity instead of adequately compensating a driver for their time in a way that maximizes safety.

---

[8] Government Accountability Office, page 24.

TECHNOLOGY ALONE DOES NOT EQUAL SAFETY

Many large fleets have and are increasingly utilizing various forms of technology marketed as improving highway safety. A sample list of these systems includes:

- Electronic stability control
- Speed limiters
- Electronic logging devices
- Lane departure warning systems
- Crash avoidance technology
- Driver-facing camera systems

There may be benefits in the use of these technologies in certain situations and operations, and some small carriers utilize these systems. However, their deployment should never be done in lieu of investments in driver training, a focus on building a company-wide positive safety culture, ensuring that drivers are valued, adequately compensated, and empowered to make safety-conscious decisions like pulling over to avoid traffic or bad weather.

There are many reasons why large fleets deploy these systems: managing drivers, reducing liability, and improving fuel economy are some of the most common. Speed limiters collectively improve fuel efficiency of large fleets (especially those employing a higher percentage of newer drivers); electronic logging devices are used track the productivity of drivers; and forward collision warning in addition to stability control systems have shown some success in mitigating accidents. The success or failure of this technology should show in reduced at-fault crash rates for carriers that use it. While I do not begrudge carriers who use these systems, the proof should be in their results, not their potential from a study. Further, for an owner-operator who has been driving accident-free for several decades without incident and without having used any of this technology, perhaps it would be behoove regulators to look to these professionals to learn about safe trucking. No amount of technology can replace experienced truck drivers; in certain situations it can help, but its limitations must be recognized by carriers and regulators alike.

Those limitations can also result in negative safety consequences. For instance, NHTSA and FMCSA continue working on their joint rulemaking to mandate that all trucks utilize speed limiting settings. However, as outlined in a letter from OOIDA on April 24, 2015, speed limiters create ibn many cases significant differentials in speeds traveled between trucks and other vehicles on the road. Speed differentials lead to interactions between vehicles as those traveling faster overtake those moving slower, and these interactions are a significant contributor to crashes. A significant body of DOT-funded and independent research over the years has shown the safety benefit of uniform speeds on our nation's highways. A major reason our Interstate system is the safest part of our highway system – despite the fact that it generally permits the fastest speeds of any roads – is that vehicles of all types generally move at a relatively uniform speed.

By limiting trucks to 65 MPH, there are a number of scenarios where differences in speed traveled create safety hazards, especially in areas of the country where highway speed limits exceed 65 MPH. There are areas in the country where speed limits of 70 MPH or more can

create speed differentials of up to 25 MPH between speed-limited trucks and automobiles—and even as high as 85 MPH in parts of my home state of Texas—increasing the likelihood and the severity of rear-end collisions. Indeed, a major carrier who uses speed limiters recently stated in testimony that the most common crash their trucks are involved in are those where another vehicle rear-ends their truck.

It is also important to note that the majority of speed-related crashes occur where the posted speed limit is 55 MPH or less, thus calling into question whether or not speed limiters will reduce the most commonly occurring speed-related crashes. So many states have eliminated car-truck speed-limit differentials over the past 15 years. Texas, Illinois, and Ohio have enacted legislation to eliminate speed differentials on their interstates. Kansas, Maine and Virginia have also enacted legislation to reduce or eliminate speed differentials on their interstates and other roadways. OOIDA fears that much of this progress in highway safety will be undermined with the adoption of a speed limiter mandate that once again creates speed differentials that state governments sought to eliminate.

The concerns with speed limiters highlight the negative and unintended consequences that can come with an overreliance on technology to achieve highway safety results. As the OOIDA Foundation has shown, experienced drivers for large owner-operator carriers drive an average of 1.72 million miles between crashes, while technology-focused carriers on average drive 500,000 fewer miles between crashes.[9] These statistics, which reflect real on-the-road safety performance, certainly point to a reality where safety technology replacing career, dedicated, safe, knowledgeable, and experienced drivers is wishful thinking.

Concerns with "Beyond Compliance" Concepts - Recently, the FMCSA announced that it would be taking public comment on a "Beyond Compliance" structure to provide incentives for motor carriers who exceed basic regulatory compliance requirements.[10] OOIDA has serious concerns about the impact of such a program, especially if it is structured in a way that will allow a carrier who is using safety technologies to improve compliance-based evaluations to avoid appropriate scrutiny by the FMCSA and state enforcement officials despite the fact that they have an above average crash rate.

Further, many of the potential "Beyond Compliance" actions that the FMCSA is considering giving carriers "credit" for are technologies like those listed above that will be utilized by large carriers for driver and liability management purposes. Smaller and mid-sized motor carriers will generally not see an additional safety value in utilizing these technologies, and if they will, the carrier does not need a government incentive to encourage their adoption.

If the FMCSA was focused on evaluating carriers based upon their at-fault crash records, then no separate incentive would be necessary, as the proof of their effectiveness would be in a reduction

[9] OOIDA Foundation, Inc., "Examination of Publically Available Data from FMCSA on CSA Scores and Motor Carriers."
[10] 80 Fed. Reg. 22770 (April 23, 2015).

in at-fault crashes. Some carriers have arguably deployed these systems and seen crashes reduced, but many others have not or have seen their crash rates remain stable while the quality of drivers working for the carrier continues to decrease. This is why the bulk of insurance carriers do not provide "credit" for these systems in premium rates, as any benefit will be seen in reduced crash-related insurance claims.

If the FMCSA adopts any type of "Beyond Compliance" program, it must not be structured in a way where purchase of technology results in a lower CSA SMS BASIC score. Carrier after carrier uses speed limiters, yet they still have speeding violations and the same holds true with use HOS violations and ELDs. The proof should be shown in a reduction of at-fault crashes, which will benefit carriers and highway safety alike.

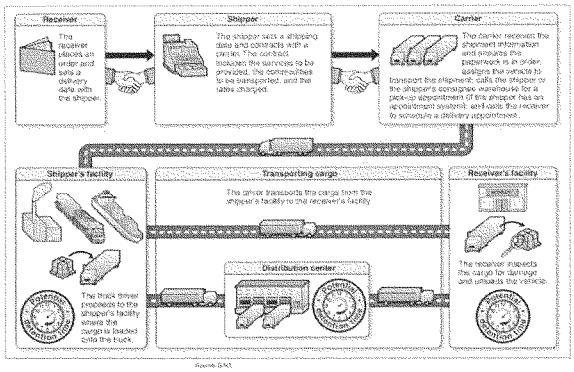
Reward carriers that don't crash - Instead of rewarding the use of technology or spending a lot of energy developing a "Beyond Compliance" program that may let unsafe carriers avoid needed enforcement scrutiny, highway safety would be better served if the FMCSA actually rewarding and recognizing carriers and drivers that operate safely without crashes.

OOIDA's membership rolls are filled with thousands of drivers with millions and millions of miles of safe and accident-free driving experience. These men and women represent the best in our trucking industry, yet with the exception of a few comments in a speech, their commitment to safety is rarely acknowledged and never rewarded. The same goes for small carriers, those who with a collective crash rate half of that of large carriers that the FMCSA points to as "safety leaders." The safety leaders are small owner-operator carriers, with drivers who are incentivized to operate safely not because of some government program, but because it is their truck, their business, and their personal safety on the line.

A focus on rewarding carriers and drivers for lower crash rates would also allow a much more comprehensive examination of commercial motor vehicle safety issues and policies. Instead of simply focusing on HOS compliance and "we believe" predictions about the safety benefits of cutting an hour of driving time here and adding a requirement for a 30-minute break there, a full and broad-based examination of driver fatigue could occur and drivers could be empowered to drive when safety is maximized and rest when they are tired, when they encounter traffic, or when experiencing bad weather. Individual regulatory requirements could be scrutinized for their true impact on crashes, and not just the FMCSA's practice of turning correlation into causation.

Such an examination does not stop of the policies of the FMCSA. Individual motor carriers – and the goods movement industry as a whole – would be more likely to examine into industry practices, eliminating inefficiencies and actions that serve as disincentives for safe operations.

Figure 2: Description of the Steps Typically Involved in Moving Cargo



Driver detention, where drivers are held at the dock for hours at a time, is a huge inefficiency within the goods movement network; however, for the most part neither the shipper nor the receiver feels the economic cost of these inefficiencies. They are all laid at the feet of the driver. Mileage-based pay for employee drivers, which is common-place across the trucking industry, makes the impact of detention time and other inefficiencies even worse. As stated by a carrier executive recently, under mileage-based pay, drivers "shoulder all the inefficiencies of our industry, of the highways, of our dispatch, of our maintenance, everything…if anything stopped them or slowed them down they were bearing the burden."[11] As carriers were forced to increasingly prioritize skilled, experienced, and professional drivers, they would be in a greater position to demand higher rates from shippers, placing a greater value on truckers as the key to safety and trucking as a key factor in our nation's economic success.

THE FOUNDATION FOR CRASH-FOCUSED REGULATIONS & ENFORCEMENT

OOIDA recognizes that such major reforms of commercial motor vehicle policy will not occur overnight. However, Congress can take several positive, pro-safety, and pro-small business steps during the upcoming highway reauthorization bill to set the foundation for this much-needed change. We appreciate the attention that members of the Committee on Transportation & Infrastructure on both sides of the aisle have paid to proposals and priorities of OOIDA and small business truckers. Specific reauthorization priorities include:

Review of FMCSA Regulations – As highlighted above, there is a need to examine current FMCSA regulations to ensure that those being enforced are effective in improving highway safety. OOIDA has proposed a comprehensive review process for individual regulatory provisions, with a focus on ensuring that those seeing enforcement have a statistically-significant causal effect on at-fault truck crashes. This includes the 2013 changes to the HOS regulations as well as the inability to pause the 14-hour on-duty clock.

[11] *Fleet Owner.*

Reform of FMCSA's Rulemaking Process – There is a strong pattern of major shortcomings in the various studies and regulatory evaluations conducted by FMCSA to justify and formulate regulatory policies. New rules are based upon results from studies that only considered a tiny number of participants and lack peer review; are largely fully developed by the agency before it even truly identifies the problem or asks stakeholders how best to address the issue; and the agency takes little to no action to identify lower-cost alternatives for small businesses, basing many of its rules on the experience of the largest carriers. OOIDA has proposed reforms to the rulemaking process that would insure a representative evaluation of proposals.

Ending the Methodological Biases of CSA – OOIDA supports efforts, including legislation introduced by Congressman Lou Barletta, to pull down CSA SMS scores until the FMCSA can make improvements to the accuracy of the data and methodology used by the CSA program and the SMS. Our many concerns with CSA have been outlined above, and the reauthorization bill represents an opportunity for Congress to bring sensible reforms to this program to improve fairness and highway safety.

OTHER HIGHWAY REAUTHORIZATION AND POLICY PRIORITIES FOR 2015

OOIDA supports a robust and long-term highway reauthorization bill that ensures road and bridge repair, improvement, and modernization efforts are funded to the maximum extent possible. Better maintained roads are safer roads, and roads with increased capacity reduce opportunities for interactions – and accidents – between highway users. As such, OOIDA has these additional policy priorities for reauthorization and for 2015:

Entry-Level Driver Training Standards – Congress first called on the DOT to set these standards back in 1991 as part of the Intermodal Surface Transportation Efficiency Act (ISTEA), and safety recommendations from the National Transportation Safety Board (NTSB) on the need entry-level driver training go back to 1975. A 1986 recommendation from NTSB is especially relevant:

> *"Truck driving is a specialized skill, distinct in many ways, and more demanding than operating a smaller vehicle, such as a car. However, far too many people are able to enter the field without having first acquired that skill..."*

OOIDA is pleased to be part of the Entry-Level Driver Training Advisory Committee established by the FMCSA to establish these standards along with other representatives from the trucking and motorcoach industries, training providers, labor, law enforcement, regulators, and others. We appreciate the FMCSA's attention to this important issue, and feel that these standards will be a significant step towards improving highway safety by ensuring that new drivers are better-trained for the challenges of the road.

OOIDA's priorities for entry-level driver training standards focus on setting basic, core components of a driver training program for new, long-haul tractor trailer drivers to ensure they are proficient in the knowledge and skills areas needed for safe and compliant driving. Additionally, we are focused on accountability throughout the system and ensuring that instructors and road test examiners are qualified to train and determine the safety performance of a new truck driver.

Halting the FMCSA's Effort to Increase Financial Responsibility Requirements – The FMCSA is currently developing a rulemaking that almost exclusively targets small business truckers by mandating an increase in the amount of financial responsibility or insurance coverage that commercial motor carriers are required to maintain. While they have not specified an amount by which this requirement will increase, they have publicly entertained adjusting and pegging requirements to medical CPI thus bringing the required amount of insurance for general freight to $4.5 million and for hazardous materials higher than $20 million. This is being considered despite the fact that current requirements cover the damages in more than 99 percent of at-fault truck crashes.

The average owner-operator spends approximately $5,000 in annual premiums, and if requirements indeed go up by as much as 500%, premiums could increase to as much as $20,000 assuming insurance companies selling truck insurance are willing to expose themselves to that level of risk. This kind of policy does not weed out the bad actors as some groups may infer, and it will not help victims of catastrophic truck crashes. In fact, we are concerned that such a rulemaking will pull the most experienced truck drivers off the road, thereby making highways less safe as a result.

Improving the Motor Carrier Registration Process – The process used by the FMCSA for motor carrier registration, including application and review, is extremely dated and limited. The flaws of this system allow for unsafe carriers, including reincarnated carriers, to slip through the cracks and operate on our nation's highways.

There was even the case of Devasko Lewis, a carrier owner who was jailed for serious safety violations that resulted in a crash that killed seven people. Lewis was able to reincarnate his carrier by obtaining a new DOT number from prison, not once, but twice.[12] This is a serious oversight by FMCSA, who is only able to conduct audits on four percent of applicants for DOT authority. OOIDA has proposed the following improvements to the registration process: 1) Modernize the "FMCSA Register"; 2) Improve the Application for Operating Authority; 3) Real vetting of applicants for motor carrier authority; and 4) Address Operational Concerns with FMCSA's Registration Process.

---

[12] *Land Line*, "Georgia man pleads guilty for his role in 'chameleon' carrier scheme." February 3, 2015. http://www.landlinemag.com/Story.aspx?StoryID=28442#.VT5jStJViko

Addressing Implementation Challenges with the Registry of Certified Medical Examiners – In May of last year, FMCSA implemented a certified medical examiner program where CMV operators looking to renew their DOT certification need to go to a DOT certified medical examiner. There have been significant problems with this change, as issues involving the non-uniform training that examiners received from third parties, the lack of knowledge of an individual driver's medical history, and now open door for unscrupulous clinics that will not renew driver certification unless drivers are made to take expensive tests that the clinic offers.

OOIDA has been working with the FMCSA in an attempt to address many of these issues, but frequently the agency is running into regulatory and statutory limitations on their ability to right a wrong and keep a safe and experienced driver operating in the industry.

Oversight of the Cross-Border Trucking Program – It is curious as to why FMCSA believes data collected on its recent cross-border trucking program is sufficient to determine that Mexican-domiciled trucks can safely conduct long-haul trucking operations outside of the commercial border zones of southern Border States. Only 15 carriers participated in this program, with data on roadside inspections and border crossings heavily skewed towards two carriers. FMCSA claims to have data on enterprise carriers—U.S.-based carriers that are at least 55 percent owned by a Mexican person or entity—is more than sufficient to determine that Mexican-domiciled trucks can indeed conduct long-haul operations with the U.S. border. Enterprise and pilot carrier data cannot be compared as the majority of pilot carriers operating within U.S. border zones. Furthermore, 351 out of 918 enterprise carriers were given operating authority by FMCSA during the duration of the pilot program; why weren't these carriers offered an opportunity to participate in the pilot program instead, where vast amounts of useful data were being collected? Why can't FMCSA provide a list of enterprise carriers via its CSA website? The fact that Mexican-domiciled trucks are not being put out of service for violations that warrant such action should be frightening to those who must share the highway with these vehicles.

CONCLUSION

It is difficult to be optimistic about the future of commercial motor vehicles, and trucking in particular. My father continues to be a trucker, working as an independent owner-operator, after over forty years behind the wheel. It is not unusual to see truckers who have been in the industry for multiple generations. But if you were to ask small business truckers and owner-operators whether or not they would want their children to continue the family trade as I have, many would tell you "no." Trucking is stressful enough without excessive and unnecessary regulations compounding the pressure of the job. When trucking critics look at truck crash data, we are immediately assigned blame and mischaracterized as reckless, regardless of the fact that the government's own data shows that the majority of truck-involved accidents are the fault of passenger vehicles. In cases where a truck is involved in an accident where the truck driver is not at fault, it not only counts against his CSA score but that trucker and the carrier are still subject

to lawsuits that are emotionally and financially draining. We are constantly under scrutiny by law enforcement even when we are just doing our jobs, and doing them well.

That is not to say it isn't a rewarding profession. Aside from the everyday challenges of driving a truck, a career in trucking can provide a level of independence not experienced in any other job. Being on the road is not just a career, it is a lifestyle. Drivers take pride in performing a critical function that keeps this great nation going. They take pride in their professionalism, sense of duty, and dedication to safety. They are the eyes and ears of our highways, regularly reporting crimes and accidents—and in many cases, pulling over to help those needing help. This country depends on truckers to do their jobs and it is important for policymakers to understand that making their jobs harder does not create safer highways.

Owner-Operator Independent Drivers Association

National Headquarters: 1 NW OOIDA Drive, Grain Valley, MO 64029
Tel: (816) 229-5791 Fax: (816) 427-4468

Washington Office: 1100 New Jersey Ave, SE, Washington, DC 20003
Tel: (202) 347-2007 Fax: (202) 347-2008

June 16, 2015

The Honorable Sam Graves
Chairman
Subcommittee on Highways & Transit
Committee on Transportation & Infrastructure
Washington, DC 20515

Dear Chairman Graves:

Thank you for the opportunity to respond the question for the record following the Highways and Transit Subcommittee hearing on April 29, 2015 submitted by Ranking Member Norton. Below, please find my responses, on behalf of the Owner-Operator Independent Driver's Association.

If you or any members of the Subcommittee have any further questions, please contact OOIDA's Director of Government Affairs, Ryan Bowley, at ryan_bowley@ooida.com.

Sincerely,

/s/
Danny Schnautz
OOIDA Member

Questions for the Record Submitted by Ranking Member Norton:

Could you elaborate on the real-world impacts of not having robust minimum Federal training standards for commercial drivers? What does a driver currently have to do in order to get a Commercial Driver's License and what does OOIDA believe a driver should have to do?

Currently a person could walk into a State Driver's License Agency (SDLA) with absolutely no training and pass the written test to obtain a commercial learner's permit (CLP). After fourteen days – not fourteen days and a certain level of training or even observed experience, just fourteen days - they will be eligible to take the driving test on the class of vehicle they are seeking a license to drive. If during that short drive they pass the evaluation they will be given a CDL. Unlike the graduated driver's license systems utilized by most states and formalized under MAP-21, there is no graduated program for commercial licenses. Once the CDL has been obtained, the new commercial driver can drive any vehicle he or she is licensed for in any conditions and throughout the United States.

This current method only evaluates the absolute basics of highway rules and basic knowledge of the vehicle systems to allow the applicant to pass the test. The limitations of this system are clear. The driving evaluation during one short trip could allow for someone to have a "lucky" day and pass. They do not offer more than one chance to evaluate the driver's skills and reactions. They do not offer a chance to experience a variety of road and traffic conditions that will be crucial skills in any driving job. The focus is merely on passing the written test for the CLP and the short driving evaluation.

The goals of the Entry Level Driver Training Advisory Committee (ELDTAC) and the FMCSA in the follow-on entry level driver training regulatory proposal should be to create an entry level driver training program which goes beyond teaching to the test. A greater awareness of the responsibilities a driver has must be conveyed during training. Skills such as scanning the road ahead and correctly managing the space around the vehicle need to be effectively learned and clearly demonstrated.

Thankfully, these items have been included in the curriculum which the ELDTAC created through a consensus-based process that involved OOIDA and a broad stakeholder community. The Draft Term Sheet also includes methods for FMCSA to track the effectiveness of training programs. If used correctly this will allow the agency to determine which types of training programs are producing safe drivers. The Term Sheet, and additional information, is available online at http://www.fmcsa.dot.gov/eldtac.

With the adoption of a Term Sheet by the ELDTAC, the FMCSA is now responsible for developing a formal rulemaking proposal, completing the initial cost-benefit analysis, and issuing a NPRM for public comment. Our hope is that the agency will complete this work as soon as possible.

You indicated that OOIDA is represented on the negotiated rulemaking committee convened by FMCSA. Can you comment on how the process is going, and whether you believe the Committee will be able to achieve an agreed-upon rule in a timely manner?

While the ELDTAC started very slowly, and with substantial organizational issues, it was ultimately successful in reaching consensus in a very short amount of time on May 29th. The next steps by the FMCSA of producing a cost-benefit analysis will be critical. If the agency puts forth the same level of effort into this rulemaking cost-benefit analysis as they have with other rulemakings there should be no issues with showing a benefit as compared to the very reasonable costs associated with this rule.

OOIDA believes that overall the negotiated rulemaking process has been a successful one. As noted during the hearing, one of the greatest concerns across the trucking community, and one especially voiced by the professional drivers which OOIDA represents, is that the FMCSA's traditional approach to rulemaking is seriously flawed. One of the tools that the agency can use down the road is to consider greater use of negotiated rulemaking panels on areas where there is a clear desire across the complete stakeholder community to achieve a policy outcome. The rulemaking committee was focused on an outcome, and the process allowed for an in-depth discussion of the means to achieve that outcome in an open manner. This was key in helping drive consensus.

Too frequently, even when the FMCSA holds listening sessions, professional drivers feel that the agency has already made up its mind on a regulatory decision and is simply holding the session or accepting comments to "check the box." This is frustrating and is in so many ways counter to the intent of the rulemaking process as developed by Congress in the Administrative Procedures Act. Greater use of the negotiated rulemaking process, even on areas where there is clear disagreement on the details of policy, could prove useful in addressing many of the issues faced by the agency and stakeholders.

When this rulemaking is complete we will have a basic level of requirement for entry level drivers. This does not mean that we will have a comprehensive program. A graduated CDL program (not currently required) would provide a much more comprehensive training experience and greatly benefit safety.

Also looking beyond the scope of the ELDTAC, the process helped confirm a view long held by OOIDA that there is a need to provide some level of formality to post-CDL training provided by carriers. While this is a crucial opportunity for an entry level driver to get real world experience with a trainer next to them, too often the very common practice is for the trainer and entry level driver to drive the truck as a team with the so-called "trainer" sleeping while the trainee drives. This negates any opportunity for training to occur.

Many carriers offer these training positions to drivers who are themselves entry level drivers and have just recently completed their own training. Trainer requirements can be as low as a few months of behind the wheel experience. This leaves a great deal of room for improvement. Without even a year of experience the driver will not have proven to be able to handle all of the seasons. This not only includes precipitation, but deer and other animals crossing roadways during certain seasons, seasonal holiday traffic with roadway users who are not regular drivers and much more.

In comparison, one part of the ELDTAC recommendations to FMCSA are for behind-the-wheel entry level driver trainers to have at a least one year of driving experience. A minimum of two years would be a substantial improvement in level of experience. At this minimum level a driver will have had the chance to experience a year of seasonal challenges, and then had the chance to apply what was learned in the previous year. Further years of experience would increase the level of skills developed. When trainers do not have these levels of experience they cannot possibly convey skills they do not have to their trainees.

To illustrate the above point, one of the country's largest carriers who provide CDL training and post CDL finishing training had an incident occur recently. The trainer drove the truck onto a mountain route which is very clearly marked as prohibited for large trucks. Despite this, the driver continued onto the route past the signage and eventually became stuck and therefore the route had to be shut down.

While it is easy to place all of the blame on the driver, in reality, this failure precedes the truck driving past the signage marking the route as restricted. A well trained driver would never consider taking any road other than an Interstate highway over a major mountain range without first checking the route for restrictions. This is a very simple process which only requires a quick check in a Motor Carrier Road Atlas which is available at every truck stop. This clearly demonstrates that an inexperienced driver should not be training an entry-level driver. In this case that was exactly what this driver was doing. There is no substitute for experience to both gain knowledge and prove adequate skills.

Statement of

Tom B. Kretsinger, Jr.

President/CEO

American Central Transport

Before the

HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

Hearing on:

"The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation"

April 29, 2015

Introduction

Chairman Graves, Ranking Member Norton, members of the Subcommittee, my name is Tom Kretsinger and I am the President and Chief Executive Officer of American Central Transport (ACT). ACT is a premium service truckload carrier operating over 300 trucks and serving major shippers throughout the eastern half of the United States. At ACT, we pride ourselves on our corporate culture and commitment to safety. We have adopted a "by the book" philosophy which has resulted in ACT becoming one of the safest, most reliable motor carriers in the country.

Today I testify on behalf of the American Trucking Associations (ATA). ATA is the national trade association for the trucking industry and is a federation of affiliated State trucking associations, conferences, and organizations that together have more than 35,000 motor carrier members representing every type and class of motor carrier in the country. Like ACT, ATA has a proud tradition of supporting progressive safety initiatives. Thank you for the opportunity to testify.

Mr. Chairman, today I will speak about the trucking industry's safety record and ways to continue this long-term trend. I will also talk about a fundamental change in the government's approach to truck safety that is needed to make further, significant gains in truck safety. Meaningful improvements will require an acknowledgement of the principal causes of truck crashes and a commitment to making appropriate countermeasures the highest priority. It will also require a shift from the current "rules and enforcement" centric model, to one that promotes the voluntary adoption of safety technologies and initiatives.

The Industry's Safety Record

The trucking industry has an impressive safety record and is near its safest point in history. For example:

- The truck-involved fatality rate has decreased 74% since 1975, the first year the U.S. Department of Transportation (DOT) began keeping records.[1]
- From 2003 to 2013, the number of truck-involved fatalities fell by 21% and the number of truck-involved injuries fell by 22%.[2]
- From 2003 to 2013, the truck-involved fatality rate per 100 million vehicle miles traveled dropped 38%.[3]

---

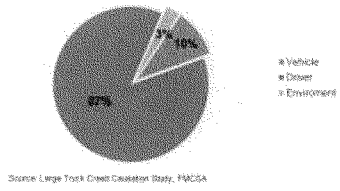
[1] *Large Truck and Bus Crash Facts 2013,* Trends chapter, Table 4, page 7, Federal Motor Carrier Safety Administration, Washington, D.C. http://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2013.

[2] *Large Truck and Bus Crash Facts 2013,* Trends chapter, Table 7, page 13, Federal Motor Carrier Safety Administration, Washington, D.C. http://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2013

[3] *Large Truck and Bus Crash Facts 2013,* Trends chapter, Table 4, page 7, Federal Motor Carrier Safety Administration, Washington, D.C. http://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2013

- In actual numbers, there were 975 fewer fatalities in 2013[4] (the most recent year for which data are available) than in 2002—remarkable progress in light of the trucking industry driving 60 billion more miles in 2012 (compared to 2002).[5]
- The truck-involved injury rate has decreased 56% since 1993.[6]
- Over the past decade alone, the truck-involved injury rate dropped by 26%.[7]

To continue this trend will require a greater focus on the causes of truck crashes and a focus on appropriate countermeasures. Specifically, according to multiple studies, data, and other indicators, the vast majority of large truck crashes are the result of driver behaviors and errors. Only a small percentage of large truck crashes are attributable to vehicle defects. For instance, FMCSA's Large Truck Crash Causation Study found that driver error was the "critical reason" behind 87% of crashes studied.[8] Similarly, the Unsafe Driving BASIC in FMCSA's CSA Safety Measurement System, which captures moving violations and other unsafe driving behaviors, is the measurement category with the strongest correlation to crash risk. A recent FMCSA study found that, on average, fleets with high scores[9] in this category have 93% higher future crash rates than fleets with low scores.[10]



Source: Large Truck Crash Causation Study, FMCSA

Understanding the role of driver behavior in crash causation sheds additional light on how FMCSA's use of enforcement funding and resulting activity can be more cost-effective. For example, FMCSA's *Safety Program Effectiveness Measurement Report*, dated November 2014, shows that on-road traffic enforcement activity is far more effective at preventing future crashes than standard roadside inspection activity. The latter typically involves a vehicle inspection to

[4] Ibid
[5] Highway Statistics 2013, Federal Highway Administration, Washington, D.C. January, 2015 http://www.fhwa.dot.gov/policyinformation/statistics/2013/vm1.cfm; and Highway Statistics 2002, Federal Highway Administration, Washington, D.C. January, 2011. http://www.fhwa.dot.gov/policy/ohim/hs02/vm1.htm
[6] *Large Truck and Bus Crash Facts 2013*, Trends chapter, Tables 7, page 13, Federal Motor Carrier Safety Administration, Washington, D.C. http://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2013
[7] Ibid.
[8] *Large Truck Crash Causation Study*, Federal Motor Carrier Safety Administration, Washington, D.C., November 2005.
[9] High scores in this context means above the threshold for enforcement intervention selection which, for most carriers, is set at the 65th percentile.
[10] Low scores in this context means below enforcement intervention selection thresholds.

detect component defects and a review of the driver's paper work (e.g. hours of service records of duty status) and credentials (e.g., license and medical examiner's certificate). The former, traffic enforcement, consists of on-road monitoring of driver behavior (e.g., moving violations) coupled with some form of limited inspection activity (e.g., a "walk-around" inspection of vehicle components).

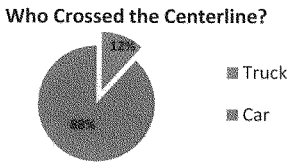
FMCSA's aforementioned report reflects that for every 1,000 traffic enforcements 12.05 crashes are prevented compared to 2.7 crashes per 1,000 standard roadside inspections. In other words, traffic enforcements are more than four times more effective at preventing crashes and saving lives.[11] Unfortunately, figures available on FMCSA's website indicate that traffic enforcements only comprise a small portion of field enforcement interventions (e.g., 10%) and suggest that this percentage has been dropping steadily over the past seven years. The agency should find this trend both alarming and compelling.

FMCSA's program effectiveness document points out that the "*evaluation provides FMCSA and State MCSAP partners with a quantitative basis for optimizing the allocation of safety resources in the field.*" This statement is true, but it appears as though FMCSA and its state partners have not actually used the evaluation for this purpose. If the agency and states had done so, we would have observed an *increase* in traffic enforcement activity, not a *decline*. Though ATA is not advocating for any specific solution to this disparity at this time (e.g., certain percentage of funds dedicated solely to traffic enforcement activity), we are concerned about the balance between roadside vehicle inspections and traffic enforcement and, moreover, the apparent downward trend in the latter. FMCSA should consider "optimizing the allocation of safety resources" as the program effectiveness documents suggests and take into account the four-fold efficacy of traffic enforcement activity.

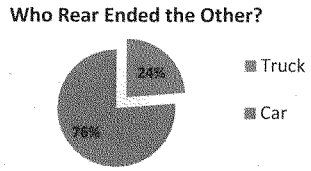
Proper focus also requires an honest acknowledgement of the role other motorists play in fatal truck crashes. According to a recent FMCSA report,[12] and consistent with previous research on the subject,[13] 70% of fatal crashes involving a large truck and a passenger vehicle are initiated by the actions of, or are the fault of, passenger motorists. For instance, large trucks are three times more likely to be struck in the rear in two-vehicle fatal truck crashes.[14] Also, in 88% of fatal head-on collisions between a large truck and a passenger vehicle, the passenger vehicle crossed the median into the truck's lane of travel.[15] Hence, to be effective in reducing commercial motor vehicle crashes, FMCSA must embrace a broader focus and place heavy emphasis on the role other motorists play in these events.

---

[11] *FMCSA Safety Program Effectiveness Measurement: Intervention Model Fiscal Year 2009*, FMCSA, April 2013.
[12] *Financial Responsibility Requirements for Commercial Motor Vehicles*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, January 2013, page xii, footnote 2.
[13] *Relative Contribution/Fault in Car-Truck Crashes*, American Trucking Associations, Arlington, VA, February, 2013.
[14] *Traffic Safety Facts 2012 Data: Large Trucks*, National Highway Traffic Safety Administration, http://www-nrd.nhtsa.dot.gov/Pubs/811868.pdf
[15] *Large Truck and Bus Crash Facts 2013*, Vehicles chapter, Table 19, page 75, March 2015, *http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Large-Truck-and-Bus-Crash-Facts-2013_0.pdf*



Source: FMCSA's Large Truck and Bus Facts 2013



Source: FMCSA's Large Truck and Bus Facts 2013

The long term improvement in truck safety is due, in part, to industry-supported initiatives. For example, ATA was an early advocate of mandatory drug and alcohol testing, the commercial driver's license program, a ban on radar detectors in trucks, and the recently proposed clearinghouse of drug and alcohol test results. The industry continues to call for additional initiatives that will improve safety, particularly in the technology arena, such as the mandatory use of electronic logging devices to track hours of service compliance, a national system to alert employers of drivers' moving violations in a timely fashion, the mandatory use of speed limiters on trucks, and stability control systems to prevent rollovers and loss of control crashes.

These technologies and safety initiatives fall into two broad categories: 1) Those that the government will likely mandate by regulation; and 2) those that fleets will increasingly adopt voluntarily. The following is a discussion of ATA's views on soon-to-be mandated technologies and safety initiatives, and on ways to better incent fleets to voluntarily adopt others.

Regulated Technologies

The Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration (NHTSA) are in varying stages of developing regulations to require the use of several safety-based technologies and tools. The following is a discussion of each.

Electronic Logging Devices

The Moving Ahead for Progress in the 21st Century Act (MAP-21) required that FMCSA publish a final rule to mandate that all drivers required to maintain records of duty status use electronic logging devices (ELDs). ATA supports such a requirement since ELDs are the most reliable and accurate way to track compliance to the HOS regulations. Also, FMCSA data generated in the context of other initiatives demonstrates a clear correlation between hours of service compliance and safety. ATA applauds FMCSA on the February, 2014 publication of its Supplemental Notice of Proposed Rulemaking (SNPRM) on this matter and encourages the agency to quickly publish a final rule.

ATA has urged FMCSA to explore ways that the agency can actively promote voluntary ELD adoption, in advance of a mandate, through the use of incentives. Given the known benefits of ELD use and recognizing that a mandatory adoption deadline is still a few years away, incentives for voluntary adoption are appropriate. Moreover, providing them would help balance some of the enforcement disparities and competitive disadvantages that early adopters currently face.

Speed Limiters

In 2006, ATA and Roadsafe America petitioned the National Highway Traffic Safety Administration (NHTSA) and FMCSA to require that speed limiters on all commercial motor vehicles over 26,000 lbs be set to limit their top speed. In late 2010, NHTSA granted the petitions and agreed to conduct a rulemaking on setting the limiters on newly manufactured vehicles. FMCSA later announced it would conduct a companion rulemaking, presumably to prohibit device tampering and perhaps to require that limiters be set on existing vehicles, not just new ones.

Arguably, this mandate could have a more profound impact on safety than any other. Vehicle speed is the single greatest contributor to highway crashes. For instance, according to the Federal Motor Carrier Safety Administration's (FMCSA) *Large Truck and Bus Crash Facts 2013*, driving too fast for conditions or in excess of posted speed limits by the truck driver were factors in 14.3 percent of single-vehicle crashes and 6.6 percent of multiple-vehicle crashes that resulted in a fatality, more than any other factor. Also, according to the University of Michigan's *Trucks Involved in Fatal Accidents* data, speeding on the part of the truck driver was cited in fatal accidents involving a large truck 8.1 percent of the time.[16] In addition, the FMCSA *Large Truck Crash Causation Study* found that "Traveling too fast for conditions" was cited as the critical pre-crash event in 18 percent (weighted estimate) of crashes where the truck was assigned the critical reason for the crash. This was the single most frequently cited factor in crashes where trucks were assigned a critical reason for the event.[17]

Everyone knows that speed kills, and speed continues to be the single biggest contributor to fatal crashes. The role speed plays in crashes is both straightforward and intuitive. Faster speeds lengthen stopping distances. Speed reduces a driver's time to react to unforeseen circumstances and take evasive maneuvers to avoid a crash. When a crash does occur, speed increases the severity of the event.

ATA appreciates that NHTSA and FMCSA have agreed to act on our petition. However, given the role of speed in crashes, both agencies have dragged their feet for far too long and must give this issue greater priority and urgency. Once the proposed rules are issued, ATA urges that they quickly finalize and implement them.

Stability Control Systems

NHTSA is currently developing a final rule to require stability control systems on all new trucks. These systems actively reduce the throttle and apply the brakes to decelerate a vehicle if sensors detect instability or that the risk of rollover is otherwise high. They are particularly useful in situations where a truck is negotiating a sharp curve.

Studies done by both FMCSA and NHTSA have concluded that stability control systems would reduce rollover and loss-of-control crashes. For instance, a study done by the American

---

[16] *Trucks Involved in Fatal Accidents*, The University of Michigan Transportation Research Institute, Center for National Truck and Bus Statistics, Ann Arbor, MI, March 2011, Page 49, UMTRI 2011-15

[17] *Large Truck Crash Causation Study*, Federal Motor Carrier Safety Administration, Washington, DC, November 2005, Table 12, http://ai.fmcsa.dot.gov/ltccs/default.asp?page=reports

Transportation Research Institute (ATRI), for the Federal Motor Carrier Safety Administration (FMCSA), estimated that roll stability control (RSC) is 37 to 53% effective against rollovers.[18] For this reason, ATA supports mandating stability control systems and is calling for NHTSA to provide some flexibility in its final rule.

There are two principal types of stability systems: Roll Stability Control (RSC) and Electronic Stability Control (ESC). RSC systems typically activate when the truck is at risk of experiencing an un-tripped rollover. ESC systems will activate when rollover instability is detected - as well as when loss of control crashes are likely due to vehicle instability (e.g. jackknife). NHTSA's proposal called for mandating the latter, ESC. However, for some fleets in certain environments, RSC would be equally (if not more) beneficial.

The American trucking industry is extremely diverse with operations ranging from private fleets to for-hire; from truckload to less-than-truckload; from dry vans to refrigerated and flat-bed; from bottom dump to container; refuse, auto transporter and long combination vehicles; and from long haul to short haul, local cartage to the continuation of international movements. A one-size mandate does not fit all in the trucking industry. Hence, some flexibility is appropriate and necessary.

Employer Notification Systems

Because crashes are so often the result of driver behavior (rather than vehicle defects), fleets carefully monitor driver performance, including both moving violations and crashes. Not surprisingly, research has demonstrated that many moving violations are strong predictors of future crash involvement. For instance, according to an ATRI analysis, a driver convicted of improper passing or making an improper turn or erratic lane change is at least 80% more likely to be involved in a future crash. Given these findings, it logically follows that fleets would benefit from timely notification of drivers' moving violations and other licensure actions (e.g., revocations and suspensions).

Federal safety regulations currently require fleets to, at a minimum, query each driver's motor vehicle record at least annually. Some conduct such checks more frequently; while others participate in state-based systems that proactively notify them upon a change in the driver's license record (e.g., the addition of a conviction for a moving violation). The benefit of such proactive employer notification systems (ENS) is clear: more timely information. A fleet enrolled in a state-based ENS may learn of a moving violation months sooner than they would by relying solely on an annual review of the driver's motor vehicle record. Accordingly, they can take preventive action (e.g., coaching, discipline, termination) before a crash occurs.

Recognizing this benefit, ATA has long called on FMCSA to implement a national ENS. Over a decade ago, in 2004, FMCSA completed a *Driver Violation Notification Service Feasibility Study* which concluded that a national ENS could save approximately 15 lives per year and avoid up to 373 injuries and 6,828 crashes per year. Subsequently, two States – Colorado and

[18] *Analysis of Benefits and Costs of Roll Stability Control Systems for the Trucking Industry*, American Transportation Research Institute, February 2009, Page 4.

Minnesota – participated in an ENS pilot program mandated by the Transportation Equity Act for the 21st Century (TEA-21). Nearly 1,100 drivers participated in the pilot which generated 229 notifications to the drivers' employers. In its final report on the pilot, FMCSA estimated that a national system would prevent between 2,500 and 3,500 crashes and generate $240.5 million in societal safety benefits annually.

In MAP-21, Congress mandated that within 12 months FMCSA establish standards for state systems that automatically notify motor carriers of drivers' moving violations and other driver record changes (e.g., suspensions). Further, within 24 months FMCSA was to develop recommendations and a plan for implementing a national system to perform these functions. Regrettably, FMCSA missed both deadlines and, as a result, the significant safety benefits of a national ENS have not been achieved.

Given the recognized role that driver behavior plays in crashes, and the benefits confirmed by prior research, ATA urges FMCSA to make development on a national ENS system one of its highest priorities.

Voluntary Technology Adoption

In addition to technologies and safety tools being considered for regulatory mandates, there are a number of them that fleets have adopted voluntarily. The following is discussion of several and their respective benefits.

Video Event Recorders

Video event recorders are devices mounted on the windshield of the truck (typically behind the rearview mirror) that continuously record and overwrite what occurs inside and outside the vehicle. These recordings are saved when risky driving or a collision are detected. The system then alerts the driver's supervisor (e.g., safety director, dispatcher) and provides the video clip of the event to facilitate a conversation coaching appropriate corrective action.

Video event recorders are becoming increasingly popular in the trucking industry. Originally these devices were perceived primarily as a post-crash exoneration toll (e.g., video shows other party at fault). However, fleets quickly began to realize the benefits of being alerted to risky driving behaviors and the opportunity to provide subsequent driver coaching to *prevent* future crashes. In fact, a 2010 FMCSA study, conducted by the Virginia Tech Transportation Institute found that video-based driver behavior monitoring systems are effective at reducing risky driving behaviors.[19] Specifically, the number of risky driving events fell by up to 52.2% in those vehicles equipped with video recorder safety technology[20]. As these positive results have become increasingly clear, fleets have expressed a growing interest in the technology.

[19] Evaluation of an Onboard Safety Monitoring Device in Commercial Vehicle Operations, Virginia Tech Transportation Institute, Hickman, Hanowski, and Ajayi for the Federal Motor Carrier Safety Administration, June 2010.
[20] Ibid.

Blind Spot Warning Systems
Blind spot warning systems use sensor technology that detects objects in vehicle blind spots and provides a visual warning (normally in the side view mirror). The system can provide 360 degrees of electronic coverage around the vehicle, whether it is moving slowly or at highway speed. Warnings can be visual, audible, or vibrating. To achieve 360 degree coverage, tractor-semitrailers must have sensors on both the tractor and semitrailer.

Forward Collision Warning Systems
Forward Collision Warning Systems (FCWS) are radar-based systems that detect vehicles and objects in the forward path of the truck, determine distance, difference in relative speed, and azimuth between them. They then provide the driver with audible and/or visual warnings of these vehicles or objects so that he/she can take appropriate action. For instance, if a small car suddenly cuts in front of a truck, the system will promptly alert the driver. This is especially helpful when the driver's line of sight from the cab prevents the driver from seeing such obstacles. FCWS provides progressively more urgent warnings as objects become closer. This feedback improves driver behavior by encouraging safe following distances.

FCWS may also be integrated with an adaptive cruise control (ACC) system which automatically keeps a safe following distance between the truck and the vehicle in front of it. Used in combination, FCWS and ACC have the potential to prevent rear-end collisions. However, such systems do not automatically decelerate or stop the truck; they merely keep it from gaining on the vehicle in front of it. More advanced devices called collision mitigation braking systems (CMBS) slow the vehicle when an imminent collision is detected.

Lane Departure Warning Systems
Lane Departure Warning Systems (LDWS) are forward looking, vision-based systems consisting of a main unit and small video camera mounted on the vehicle's windshield that record data on the roadway ahead. They alert drivers of unintended lane changes or lane departures when the vehicle is traveling above a certain speed threshold and the vehicle's turn signal is not being used. These systems do not prevent lane departure or control the vehicle when such movement is detected; rather they alert the driver to the event so he/she can take appropriate action. Such technology can help reduce certain types of crashes such as same direction side-swipes, trucks entering into oncoming lanes of travel, and trucks departing the roadway.

Forward Collision Avoidance and Mitigation Systems (F-CAMS)
F-CAMS are forward looking radar-based systems that combine FCWS with automatic Collision Mitigation Braking (CMB) capability. The FCW feature generates visual, audible, and/or haptic warnings when the vehicle comes within a predefined distance and closing rate of another vehicle. If the driver does not respond with a braking input, and if the threat continues to worsen, then the F-CAMS automatically apply the brakes to avoid a collision when one is determined to be imminent.

Hair Testing For Drugs
An increasing number of motor carriers are conducting pre-employment and random drug tests using drivers' hair as a testing sample. Hair tests provide a better, longer picture of an

applicant's past drug use and are more difficult than other testing methods to subvert. However, since urine is the only sample type permitted under Department of Transportation regulations, companies that voluntarily conduct hair tests must do so in addition to mandatory urine tests. This duplicated time and expense deters fleets from adopting this more effective testing method. To help eliminate this redundancy and incent more fleets to conduct hair testing, ATA supports recently introduced legislation that would, among other things, authorize FMCSA to allow fleets to conduct hair tests in lieu of urine tests -- upon applying for such an exemption.

The Role of Regulation in Technologies and Safety Initiatives

Stakeholders and the government alike have often deliberated over the role of regulation in promoting the use of new and promising technologies and safety initiatives. In some cases regulation is appropriate, especially when a particular solution is cost-effective for all segments of a diverse industry. Also, regulation is sometimes necessary to ensure widespread adoption of technologies and solutions with substantial and cost-beneficial safety outcomes. However, when a single solution is only fitting for a portion of the regulated community, or when the safety benefits of a solution are not fully known, it is more appropriate to encourage voluntary adoption.

However, FMCSA's current efforts aimed at improving commercial motor vehicle safety are largely limited to a single approach, the compliance and enforcement model. To address problems and drive change, the agency issues regulations and attempts to enforce them with its own staff and with the assistance of state enforcement partners. Yet, this approach is limited in its reach and effectiveness. FMCSA only has sufficient resources to conduct comprehensive audits on proximately 3% of the motor carrier population annually, limiting the deterrence against non-compliance. Further, it ignores the many other ways, including more effective ones, to compel positive behavioral change. In other words, using the "carrot and the stick" model, FMCSA is focused on using the "stick" but has not embraced using both the carrot and the stick, when necessary.

In order to promote highway safety and speed the adoption of advanced truck safety technology, it would be appropriate for the government to provide incentives to the industry for the adoption of emerging safety technologies and safety management systems designed to prevent or reduce the severity of commercial motor vehicle crashes. Further, the government should fund research that evaluates the performance of these devices and systems to weigh the benefits of more widespread adoption. By doing so, the government could better understand the costs, benefits, and merits of use in various industry segments. Specifically, ATA would support legislation requiring NHTSA to conduct research evaluating motor carrier safety performance resulting from the implementation of these technologies and related safety management systems. The agency could promote participation by giving fleets a 50% funding match on new technology procurement in return for an agreement to provide data from these systems to better inform NHTSA's research.

A Gold Standard Program

Another way the government could bring about further safety improvements would be to incent fleets to voluntarily adopt innovative safety tools and technologies. This is not to suggest that fleets need be incented to comply with existing rules. Instead, the FMCSA could recognize and reward fleets that exceed minimum compliance requirements. The agency could publicly acknowledge those that have invested in voluntary safety technologies (e.g., Internet listing). Further, FMCSA could provide some mathematical "credit" in its safety scoring system for these motor carriers. In short, the agency, working in partnership with the industry, could establish criteria for meeting a "Gold Standard" within the industry (e.g., adoption of a minimum number of specific technologies and/or safety initiatives) and reward fleets that meet these criteria.

Just last week, FMCSA issued a Notice and Request for Public Comment to this end. This was just the first step toward considering how a motor carrier's voluntarily adoption of emerging tools and technologies could be factored into evaluating the carrier's safety posture. Such a "Beyond Compliance" initiative would include programs and tools that exceed regulatory requirements and reduce crash risk. ATA applauds FMCSA on taking this first step and encourages the agency to work closely with the industry on putting such a program in place.

Such incentives and recognition would have several benefits. Obviously, it would encourage fleets to adopt safety technologies absent a regulatory mandate. Sometimes the industry-wide benefits of imposing them are not well-understood. In these cases, greater voluntary adoption would also help the government better gather data to understand the benefits of these safety tools and evaluate the appropriateness of future mandates. For instance, data on the benefits of lane departure warning systems were generated in the passenger vehicle environment and their applicability to commercial motor vehicle safety is not known.

Conclusion

Mr. Chairman, thank you for the opportunity to offer ATA's views on the role of technology and safety initiatives in improving truck safety. As I mentioned at the beginning of my testimony, the trucking industry is justifiably proud of its long-term safety record. However, to continue this trend will require more creative approaches, beyond the current compliance and enforcement model (i.e., the stick). But first, Federal agencies must recognize the most common causes of truck crashes, like driver behavior and speed, and prioritize their actions accordingly. Moreover, all stakeholders – Federal agencies, Congress, the regulated industry – should explore how measures to promote voluntary adoption of new technologies and safety initiatives could drive further truck safety improvements. This will require a departure from the historic, single-faceted, compliance and enforcement model, and will open pathways to additional safety gains. These opportunities certainly exist with respect to initiatives that don't lend themselves to a "one-size-fits-all" regulatory mandate approach or to those that are too new for the safety benefits to be fully known.

ATA urges FMCSA to establish a new partnership with the trucking industry to create a "Gold-Standard Program" for progressive fleets that are early adopters of emerging safety tools and technologies.

Question for the Record from
Hon. Elizabeth H. Esty of the State of Connecticut
to Tom B. Kretsinger, Jr., testifying on behalf of the American Trucking Associations at the hearing
"The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulations"
Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
April 29, 2015

QUESTION: Mr. Kretsinger, I understand the ATA has looked into the grave consequences that could result from a national stoppage in truck traffic. In Connecticut, we rely on trucks to supply our food and medical supplies. Connecticut manufacturers rely on trucks to deliver components and ship their products to market. Will you elaborate for the committee on the impact that a stoppage in truck traffic would have on Connecticut and the entire nation?

ANSWER: Chairman Graves and Representative Esty, thank you for the opportunity to provide additional information about the critical importance of the trucking industry to the United States. Trucks move nearly 70 percent of the country's freight, and the goods moved by trucks each year are worth an estimated $10 trillion, representing nearly two-thirds of U.S. GDP. Therefore, any disruption to the flow of truck traffic would be catastrophic to the economy. More important, even a short stoppage of truck traffic would have a devastating health and safety impact.

It has been estimated by the American Trucking Associations (ATA) that within the first 24 hours of a truck stoppage, hospitals' access to basic medical supplies and many pharmaceuticals will cease, and manufacturing plants that rely on just-in-time delivery will shut down their assembly lines. Fuel and food shortages will begin to develop. Within 48 to 72 hours ATMs will run out of cash and garbage will begin to accumulate. Food and fuel shortages will reach critical levels. Within a week the nation's transportation system will effectively shut down due to a lack of fuel and hospitals will exhaust their oxygen supplies. Within two weeks the nation will exhaust its supply of clean water, leading to widespread gastrointestinal illnesses that will overwhelm an already failing medical system. These are just a few of the effects of a truck stoppage. While these situations may seem extreme, they are not unheard of. During Hurricane Sandy, for example, flooded roads and a lack of fuel due to massive power outages caused widespread disruptions to Northeast supply chains, including in Connecticut, as trucks were unable to make their deliveries. As infrastructure continues to deteriorate due to a lack of investment, and as weather patterns change as a result of climate change, we can expect the number and intensity of these disruptions to increase.

Thank you once more for the opportunity to testify and to address your question. Please let me know if I can be of further assistance.

Commercial Vehicle Safety Alliance

promoting commercial motor vehicle safety and security

WRITTEN STATEMENT OF

CAPTAIN WILLIAM 'BILL' REESE

PRESIDENT

COMMERCIAL VEHICLE SAFETY ALLIANCE

BEFORE THE

HIGHWAYS AND TRANSIT SUBCOMMITTEE

OF THE

HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

ON

"The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation"

APRIL 29, 2015

6303 Ivy Lane Suite 310 Greenbelt, MD 20770-6319
Phone: 301-830-6143 Fax: 301-830-6144 www.cvsa.org

Chairman Graves, Ranking Member Norton, Members of the Subcommittee, thank you for holding this important hearing and for inviting the Commercial Vehicle Safety Alliance (CVSA) to share our thoughts on the future of commercial motor vehicle (CMV) safety.

My name is Captain Bill Reese, with the Idaho State Police, and I am testifying today in my role as the President of CVSA. CVSA is an international organization representing State, Provincial, Territorial and Federal officials responsible for the administration and enforcement of commercial motor carrier safety laws in the United States (U.S.), Canada and Mexico. We work to improve commercial vehicle safety and security on the highways by bringing Federal, State, Provincial, Territorial, and Local truck and bus regulatory, safety, and enforcement agencies together with industry representatives to solve problems. Every State in the U.S., all Canadian Provinces and Territories, the country of Mexico, and all U.S. Territories and possessions are CVSA members. CVSA's mission is to save lives. The subject of this hearing, improving commercial motor vehicle safety, is critical and I appreciate the opportunity to share some thoughts and recommendations on behalf of the CMV enforcement community. While my comments will focus on the theme for this hearing, I have attached a full description of CVSA's policy recommendations.

The Federal government entrusts the States with the responsibility of enforcing the Federal Motor Carrier Safety Regulations (FMCSRs) and the Hazardous Materials Regulations (HMRs). States receive funding through the Motor Carrier Safety Assistance Program (MCSAP) to help support those efforts. The States use MCSAP funds to conduct enforcement activities, train enforcement personnel, purchase necessary equipment, update software and other technology, and conduct outreach and education campaigns to raise awareness related to CMV safety issues. The funds are used, in part, to pay the salaries of the 13,437 full and part time CMV safety professionals. These people conducted 3.4 million CMV roadside inspections, 31,951 new entrant safety audits, and 15,417 reviews in 2014.[1] The goal of these programs, which are administered by the Federal Motor Carrier Safety Administration (FMCSA), is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. The programs seek to identify vehicle safety defects, driver deficiencies, and unsafe motor carrier practices and remove them from the nation's roadways.

The good news is the program works. The benefits of the MCSAP are well documented, and every dollar invested in the State programs yields a big return for taxpayers. According to research and figures from FMCSA, CVSA estimates that the MCSAP has an estimated benefit to cost ratio of 20:1. Every roadside inspection conducted yields an estimated $3,281 in safety benefits. And, of course, effective enforcement of the FMCSRs and HMRs helps save lives every day, keeping dangerous vehicles and unqualified drivers off the nation's roads.

[1] *2015 Pocket guide to Large Truck and Bus Statistics*. Federal Motor Carrier Safety Administration. April 2015. http://www.fmcsa.dot.gov/safety/data-and-statistics/commercial-motor-vehicle-facts

In 2001, the number of registered large trucks and buses was just over 8.6 million. Since then, that number has grown 35 percent, to 11.6 million in 2010. Despite this increase, the number of fatalities due to crashes involving large trucks and buses has gone down 27 percent. The number of CMV crash-related injuries also decreased over that time frame by 30 percent.[2] These improvements in CMV safety were achieved, in large part, through investments made by the States and the Federal government.

Safety Initiatives

While the program is effective, there are a number of challenges the States are dealing with which, if left unaddressed, will diminish the effectiveness of the program. Outdated, overly prescriptive programs and rigid eligibility requirements hinder the States' ability to implement creative solutions and leverage scarce resources to meet their individual needs.

1. Improving Flexibility

   One way to improve the MCSAP is to provide States with additional flexibility in how they spend their MCSAP grant funds. MCSAP is a comprehensive commercial motor vehicle safety program with more than twenty specific components established under 49 U.S. Code § 31102(b)(2) and promulgated by regulation in 49 CFR Part 350. States are required to meet each of these components in order to participate in the program.

   To meet the goals established under MCSAP, a State's commercial vehicle safety program is comprised of a number of aspects, including roadside inspections, traffic enforcement on commercial vehicles, compliance reviews, safety audits, targeted strike forces, educational activities, and even traffic enforcement on non-commercial vehicles – the private citizens operating dangerously around commercial vehicles. The appropriate level for each activity varies from State to State and will change over time within any given State. FMCSA uses the annual Commercial Vehicle Safety Plan (CVSP) as the mechanism for monitoring and evaluation, which allows the States to determine how best to meet those expectations.

   States need more flexibility in how they spend their resources, not more restrictive parameters. Explicit language limiting how a State can spend grant funds in statute, regulation, or FMCSA policy should be minimized. Rather than prescribing a 'one size fits all' format for State programs, Congress and FMCSA should focus on setting broad parameters, program elements, goals, and expected outcomes for the program, and rely on the CVSP process to hold States accountable for meeting program goals.

---

[2] *Large Truck and Bus Crash Facts 2010: Final Version, FMCSA-RRA-12-023.* Federal Motor Carrier Safety Administration. August 2012. http://www.fmcsa.dot.gov/facts-research/LTBCF2010/LargeTruckandBusCrashFacts2010.aspx#chap1

For example, in 2010, FMCSA issued a policy memorandum to State Program Managers. In the memo, FMCSA advised the States that the recently completed Large Truck Crash Causation Study, completed in 2006, indicated that driver behavior is more likely to be the cause of a CMV crash than any other factor. As such, the agency instructed States to focus their inspection efforts on drivers. They instructed States to increase the number of Level III (driver-only) inspections to "meet or exceed the national average of 30 percent of all inspections performed."[3] In this instance, instead of prescribing rigid and prescriptive parameters across the board that may not make sense for every State, it would have been more productive and efficient for FMCSA to identify the issue – the need for increased focus on drivers – and instructed the States to account for how they plan to address this challenge in their CVSP. As part of this issue identification, the agency should supply data and research to the States substantiating the problem area. At the end of the CVSP year, FMCSA and the States could then evaluate how effective the States' strategy or strategies were with respect to reducing crashes relating to driver behavior and performance.

This flexibility is even more critical today, as the program mandates and oversight responsibilities placed on the States continue to expand, while resources remain flat-lined. States need the ability to design a comprehensive CMV safety program that utilizes creative solutions to address issues unique to each State, while also meeting the long list of program requirements.

2. Consolidating MCSAP Grants and Streamlining the Application Process

Consolidating the grant programs and streamlining the grant application process would also improve CMV safety, allowing States to spend more time doing the work of the program and less time on administrative activities. There are currently a number of different grant programs, each with a unique purpose and set of program parameters and administrative requirements, some focusing on technology, others on border enforcement, etc. Each grant must be applied for separately, and the activities for each must be tracked and reported on separately as well. However, we find that in many States, one inspector will perform duties under multiple grants on a daily basis. This creates a tremendous administrative burden for the agency tracking and reporting on the grant, as each activity and expense has to be properly accounted for and billed. Consolidating the current grant structure and providing more broad guidance on what expenses are eligible would allow the States to spend less time and energy on paperwork, remove inefficiencies, reduce administrative burdens, and free up much needed resources for enforcement activities.

CVSA also supports streamlining the CVSP submission process. As discussed above, States are spending a significant amount of time administering the grants rather than doing the work the

[3] *Memorandum: Fiscal Year 2011 Commercial Vehicle Safety Plan*. Federal Motor Carrier Safety Administration. April 8, 2010. http://www.fmcsa.dot.gov/documents/safetyprograms/MCSAP-Planning-Memo-508.pdf

grants are supposed to be paying for. Such activities include resubmitting information, such as standard text about the agency requesting the funds, contact information, miscellaneous numbers and figures concerning the number of inspectors, inspections, etc., and the amount being requested. To address this issue, FMCSA has moved to an electronic CVSP submission process. CVSA supports this new process and continues to work with the agency to improve its implementation. Using the e-CVSP approach will provide FMCSA with more up-to-date information, while reducing the workload on the States. CVSA would like to see this streamlining process continue.

Improvements can also be made to how the grants are administered by FMCSA. One major concern the States have with the administration of the MCSAP grants is the inconsistency, year to year, region to region, and State to State. FMCSA is constantly revamping the process, perhaps in an effort to improve it. However, the end result is confusion and unclear expectations for the States. Without consistency, the States cannot properly plan for their annual CVSP and grant application submission. Formatting requirements change year to year, material that was acceptable one fiscal year is no longer acceptable the next, the timeline for the grants process changes frequently, etc. This results in constant upheaval for the States, and they end up diverting much needed resources away from other efforts, as they are constantly adapting, redoing, and adjusting their process to meet the ever changing needs of FMCSA.

Another significant concern States have with the MCSAP is the constant delay and lack of consistency in the timing of funding disbursement. There are a number of factors that contribute to these delays and result in complications for the States. The annual delays in the Federal budget and appropriations processes are one contributing factor. The Federal fiscal year begins October 1, and many grant programs are set to that date. However, Congress rarely completes their funding bills by this date, delaying the disbursement of funds to the States. Even more frequently now, Congress relies on temporary continuing resolutions, which results in States receiving their funds late, and in installments. This issue is further complicated by the fact that many States do not follow the Federal fiscal calendar (most start July 1), which impacts their reporting and tracking process. Even once funds are available, the grant review and approval process takes far too long, further delaying receipt of funds for safety programs. This unpredictable, piecemeal approach to funding makes planning and management of State programs difficult. CVSA is working with FMCSA to identify solutions to addressing these issues.

3. Ensuring Adequate Funding

Given the focus of this hearing, 'the future of CMV safety', it is necessary to say a word about the need for adequate, reliable funding. According to FMCSA, the agency regulates 532,024 motor

carriers, 5.7 million commercial drivers, and 11.5 million commercial motor vehicles.[4] The State and Local agencies that receive MCSAP funding are responsible for ensuring those motor carriers, vehicles, and drivers operate safely.

Furthermore, the CMV enforcement landscape is constantly evolving and changing as Congress and FMCSA work to refine and improve the FMCSRs and HMRs. For example, FMCSA has tasked the States with implementing the process by which carriers and drivers can challenge the validity of inspection and crash report data, commonly referred to as 'DataQs'. This is a time consuming process, requiring dedicated staff, and it will only continue to grow. While FMCSA has tasked the States with reviewing and validating DataQ challenges, no additional funding has been provided. This means States must redirect funds previously used for other activities to ensure they are responding to DataQs in an effective and timely manner. Now, FMCSA is considering setting parameters establishing how the States must process the DataQs, which will undoubtedly require more effort on the part of the States, with no indication of additional funding to offset the costs.

Despite these challenges, the MCSAP, as administered by the States, has been successful in reducing crashes, injuries, and fatalities on our nation's roadways, despite a steady increase in the number of CMVs operating on those roads. However, the MCSAP will only continue to be successful if it is adequately funded. New and expanded responsibilities mean improvements in safety, but only to the extent the States have the resources to effectively implement those policies. It is critical Congress and FMCSA ensure that, as new programs are created and new responsibilities are assigned, funding is provided to the States, avoiding any unfunded mandates. Otherwise, funds are spread thinly across programs, reducing effectiveness across the board.

We recognize the issue of funding for the Federal transportation program is a complicated one, with no easy solutions. Future funding for the MCSAP is directly tied to the long-term solvency of the Highway Trust Fund. CVSA supports ongoing efforts to identify sustainable, long-term revenue sources to address the Highway Trust Fund solvency, in order to ensure stability for the MCSAP. In the event no new revenue is available, CVSA urges Congress to ensure that MCSAP grant funding is not reduced, but remains at the levels set by Moving Ahead for Progress in the 21st Century Act (MAP-21). A reduction in MCSAP funding results in jobs lost or positions unfilled at the State level. When States see a reduction in their MCSAP funding, resulting in jobs lost, their programs are reduced and fewer inspections, compliance reviews, and safety audits are conducted, reducing the safety benefit of such activities discussed above and undermining years of improvement in CMV safety.

---

[4] *2015 Pocket guide to Large Truck and Bus Statistics*. Federal Motor Carrier Safety Administration. April 2015. http://www.fmcsa.dot.gov/safety/data-and-statistics/commercial-motor-vehicle-facts

The Role of Federal Regulation

The purpose of the FMCSRs and HMRs is to help reduce or prevent truck and bus crashes, fatalities, and injuries by establishing minimum credentialing and vehicle maintenance requirements to ensure interstate motor carriers and drivers operate safely. The regulations are developed in consultation with enforcement, industry, and subject matter experts, and are intended to establish a clear set of rules by which all motor carriers must abide.

Clarity, consistency, uniformity, and enforceability are the cornerstones of an effective regulatory framework. Despite this fact, however, there are a number of policies and practices that complicate the program, undermining uniformity and consistency, and detracting from the efficiency of the MCSAP. Confusion and inconsistencies create more work for the enforcement community, as well as industry. Inconsistencies and exceptions within the regulations require more training and create more opportunities for mistakes to be made, which in turn require additional resources to address. These inconsistencies also have a direct impact on data quality.

1. Improving the Regulatory Framework

   The foundation of an effective regulatory enforcement program is quality, uniform, and consistent enforcement activities. It is imperative that those subject to the FMCSRs and HMRs understand their responsibilities and that those tasked with enforcing those safety regulations can do so effectively to ensure the quality and uniformity of the more than four million roadside inspections conducted annually throughout North America. Over time, additional regulatory authority, coupled with changes to the industry and technological advancements can result in inconsistent, outdated, and redundant regulatory language. With each year come additional requirements from Congress, aimed at advancing CMV safety. In addition, FMCSA receives and responds to petitions for changes to the FMCSRs from the CMV community. As Congress and FMCSA work to improve CMV safety, unintentional inconsistencies can slowly work their way into the regulatory framework. These inconsistencies can lead to confusion among both the regulated and enforcement communities.

   To address this, CVSA supports requiring FMCSA, in collaboration with CVSA and industry, conduct a full review of the FMCSRs, every 5 years, geared towards reducing, enhancing, and streamlining the regulations, eliminating outdated or duplicative regulations, clarifying those that need adjustment, etc. While this puts additional administrative burden on FMCSA, it is part of the agency's core responsibility – maintaining the regulations – and the benefits and savings that will accrue across the country for enforcement, industry, and the public justify the endeavor.

   Furthermore, work is needed to bring the safety regulations in line with regulatory guidance, interpretations, and policy memos issued by the agency. At times, FMCSA issues guidance documents to correct technical errors in published rules or to clarify vague regulatory language

within the safety regulations while improvements to the regulations make their way through the rulemaking process. However, the number of full rulemakings that can make it through the agency in any given year is limited by staff and funding, and a number of higher profile rules tend to push simple technical changes back in the queue. As a result, disconnects develop between written regulations, regulatory guidance, interpretations, and policy. Regular review and updating of the FMCSRs and HMRs would help to reduce these disconnects, providing a mechanism for identifying and resolving inconsistencies in policy, guidance, and regulation.

With regards to the petitions for changes to the FMCSRs from the CMV community to FMCSA, CVSA supports requiring petitions be published in the *Federal Register* upon receipt and the agency subsequently publish a notice of action taken on each petition. This would benefit both the agency and the regulated community, allowing for input early in the process, addressing potential issues before they become problems. It will notify those interested in CMV safety and the FMCSRs and HMRs of areas of interest to others in the regulated CMV community, which can foster conversation that could lead to solutions and consensus building. FMCSA would benefit from input it receives in response to petitions, which could help inform the agency's thinking on the requested changes. FMCSA could put a process in place similar to the one found in 49 USC § 31315(b)(4), which provides for notice and comment on exemption requests received by the agency.

2. Exemptions

In general, exemptions from Federal safety regulations have the potential to undermine safety, while also complicating the enforcement process. First and foremost, safety regulations exist to protect those who use our nation's roadways. The FMCSRs and HMRs exist to ensure those operating in the transportation industry are equipped to do it safely. Furthermore, every new exemption is an opportunity for confusion and inconsistency in enforcement, diverting scarce resources from other activities and undermining the program's effectiveness.

We recognize there may be instances when exemptions could be appropriate and also not compromise safety. In those instances, 49 USC § 31315(b) already provides a mechanism for those in industry to obtain an exemption through FMCSA. This process includes providing for an equivalent level of safety, requiring that the exemption "*would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption*." In addition, exemptions obtained through this process are limited to a maximum of two years (subject to renewal), which provides oversight to ensure that safety is not compromised, as well as an opportunity to eliminate exemptions that have not maintained an equivalent level of safety. This is the proper model.

In contrast, exemptions obtained through legislation do not always include safety considerations and are difficult to remove once established. Because a process exists for industry to pursue exemptions through an administrative process, CVSA opposes the inclusion of exemptions from Federal safety regulations in legislation. At the very least, when exemptions are included in legislation, CVSA supports inclusion of a 'safety clause' as a part of any exemption statutorily enacted, similar to that in 49 USC § 31315(b), providing for an equivalent level of safety, as well as language that would allow for the elimination of the exemption if an equivalent level of safety cannot be demonstrated.

Technology

As budgets continue to tighten and technology continues to advance, it is imperative those in the safety and enforcement communities take full advantage of technological advancements to improve safety. These include incorporating safety technologies and information systems into ongoing enforcement activities, utilizing available data, and equipping CMVs with technology that can help prevent or mitigate future crashes. Before highlighting the potential benefits from technology to CMV safety, an important point needs to be made. States and industry can and should leverage technology to maximize safety benefits. However, technology cannot solve all our problems – it is merely a tool we can use, and it cannot take the place of a robustly funded program built on a clear, sound regulatory framework.

1. Expanding Enforcement's Footprint

   Advancements in technology provide a number of opportunities for the enforcement community to expand its reach, allowing inspectors to maximize and better target their interactions with industry. New programs and software allow inspectors in different States to communicate with one another in real time, making it possible to more quickly identify drivers and motor carriers who have been placed out of service and should not be operating on the roadways. Data enables program managers to identify trends in safety threats and deploy their resources to target problem areas or sectors of industries. Data collected can also benefit motor carriers, by identifying trends in violations that may lead to changes to a motor carrier's maintenance or driver training and hiring practices. New technologies, like license plate readers, camera-based systems, and virtual weigh stations, expand enforcement's footprint, allowing a jurisdiction to cover more miles and more vehicles than they can with inspectors and fixed facilities alone. Laptop computers roadside mean inspectors can complete inspection reports digitally, reducing errors and saving time.

   State agencies must keep pace with developments in technology in order to deliver the most effective CMV safety and enforcement program. The MCSAP must continue to adapt and provide States with the flexibility and funding to grow their programs and fully utilize new programs, tools,

and practices. However, as technology is implemented, steps must be taken to ensure the quality of data and provide for adequate training for those using the technology.

2. Data and Information Technology Systems

Uniform, timely, and accurate data is critical to an effective MCSAP. Enforcement personnel, along with State and Federal agencies, use information on a motor carrier's past performance to help prioritize motor carriers for roadside inspections and compliance reviews. Performance data from the CMV industry is used to identify trends and problem areas, and to craft enforcement and education initiatives to target specific safety problems. Data is not only used to evaluate whether or not enforcement is being conducted uniformly, but also to determine whether or not a particular safety program or concept is successful. Data is used to determine whether enforcement funds are being used in the most efficient, effective manner possible. In order to effectively and efficiently perform these activities, the States and the Federal government must be able to rely on the data being compiled in the various systems being accurate and as uniform as possible, in order to make comparisons. Currently, however, redundant, overlapping IT systems and outdated software applications result in inconsistencies in the data being collected by the States and FMCSA, undermining the safety programs and strategies being built upon them. These data challenges hinder the inspection process and create extra, unnecessary work for industry and enforcement alike.

For example, the Motor Carrier Management Information System (MCMIS) is the main system for which all the data collected from State and Federal agencies for FMCSA is housed, including inspection, crash, compliance reviews, safety audits, carrier information and history and numerous other data sets. Other programs, such as Safer, Query Central, and State CVIEW systems, as well as the Compliance, Safety, Accountability (CSA) program, extract the data from MCMIS to run their programs. Developed in the 1980's, MCMIS is almost 30 years old. As the program ages, it becomes harder and more expensive to make software and program changes. The system can simply no longer meet State and Federal data needs.

Another program very much in need of updating is Aspen, which is the program used to collect inspection data during a roadside safety inspection. Aspen was created in the early 1990's and has had few major updates since its development. Most of the changes have been small enhancements and, as a result, users are becoming more frustrated by the system's limitations.

In addition to relying on outdated, insufficient, and inefficient systems, FMCSA has become too focused on new software development and is distracted by too many competing priorities. As a result, updates and improvements to the primary data collection and management programs on which everything rests are constantly delayed and the States are forced to use outdated and

cumbersome legacy systems. In 2009, for example, FMCSA was reviewing the Aspen program and taking input on necessary improvements. However, the update was cancelled so the agency could focus on developing the CSA program. Now, the agency is focused on creating the Unified Registration System (URS) program, yet another priority, and still many of the improvements discussed in 2009 have not been implemented.

FMCSA's IT program lacks focus and direction. Were FMCSA to focus on setting parameters and functional specifications, rather than software development, the program would improve tremendously. FMCSA should be managing the system and software development process, rather than doing the actual programming. The agency needs to clearly identify challenges and solutions, as well as addressing State needs, and establish a clear path forward to meet those needs. FMCSA must take a step back and completely reevaluate its development process and how it prioritizes IT projects.

To improve the quality of data collection, transmission and analysis, CVSA encourages Congress to call for a study of the agency's IT and data collection systems. The study should include an evaluation of the efficacy of the existing systems and programs and their interaction. It should identify redundancies and explore the feasibility of consolidating data collection and processing systems. The study should evaluate the ability of the programs and systems to meet the needs of FMCSA, both at headquarters and in the State offices, as well as equally the needs of the States themselves. The study should investigate improving any and all user interfaces. The study should take into account the systems' and programs' adaptability, in order to make necessary future changes in an easier, timely, and more cost efficient manner. In addition, the study should explore the necessity and feasibility of increasing the agency's IT budget, to bring it in line with other Federal programs.

3. Improving CMV Safety Performance

Technology can also improve safety from the industry side. According to data from FMCSA, in 2013 alone, CMVs were involved in nearly 389,000 crashes, resulting in 3,964 fatalities, and injuring another 95,000 people.[5] With the forecasted growth in population and the corresponding increase in movement of freight and passengers, truck and bus traffic on our roadways will only continue to rise. Taking full advantage of technologies that can assist in anticipating and preventing crashes will help reduce fatality and injury rates.

[5] *2015 Pocket guide to Large Truck and Bus Statistics*. Federal Motor Carrier Safety Administration. April 2015. http://www.fmcsa.dot.gov/safety/data-and-statistics/commercial-motor-vehicle-facts

Examples of such safety technologies include, but are not limited to:

- Electronic Brake Stroke Monitoring Systems;
- Enhanced Anti-lock Braking System (ABS) Monitoring Systems;
- Tire Pressure Monitoring Systems;
- Vehicle Stability Systems;
- Lane Departure Warning Systems;
- Collision Warning Systems;
- Electronic Logging Devices;
- Speed Limiters; and,
- Video-Based Driver Performance/Management Systems.

Encouraging the voluntary adoption of these safety technologies, through grant programs and/or tax credits, will help deploy the devices more quickly, preventing future crashes and saving lives. In addition, encouraging deployment of the technologies will provide additional data for testing and evaluation, which can assist in any future consideration of industry-wide mandates. Further, incentivizing deployment could help bring down the costs of any industrywide mandate and help increase the percentage of fleets being equipped with these technologies. While CVSA supports deployment of such lifesaving technologies, the U.S. Department of Transportation must work with industry and the enforcement community when developing performance standards and specifications for safety technologies, to ensure the devices are effective and any regulations put into place are enforceable.

These technologies are only beneficial and effective if they are operating properly, as originally designed. Provisions, similar to those already existing for lights, tires, brakes, etc., must be put into place for new technologies to enable inspectors to verify their functionality. For example, the recent electronic logging device (ELD) requirement included in the MAP-21 contained language instructing FMCSA to ensure the devices are 'tamper resistant' and accessible by law enforcement. Furthermore, Congress should put into place strict penalties for tampering with safety technologies installed on a CMV.

4. Impact to Enforcement

While it is true that CMV safety can benefit tremendously from technology, the impact to the enforcement community must also be taken into consideration. Technologies, whether on the enforcement side or deployed in CMVs, are only effective it they're being utilized properly and are serving their intended purpose.

When the enforcement community is not taken into consideration from the beginning, complications can quickly arise that diminish the impact these technologies can have. The

rulemaking currently underway at FMCSA on ELDs for hours of service (HOS) compliance provides a good example. There has been a significant amount of attention paid to ensuring the new regulations take into account the needs of industry, in order to ease the burden. However, the regulations must be written with all end users in mind, including the enforcement community. One of the key considerations is the transmission of the HOS compliance data from the driver to the inspector. If inspectors cannot easily and reliably retrieve data from ELDs roadside the devices are of little value. To that end, in our comments to the docket, CVSA recommended that, prior to implementation, FMCSA conduct a comprehensive study of current State technology/ communication capabilities for CVSA-certified inspectors and identify what steps would be necessary to ensure all certified inspectors will be able to access data roadside in an effective, efficient, and secure manner. This study should be completed and made publicly available prior to the agency issuing a Final Rule. The ELD rulemaking has the potential to improve HOS compliance and enforcement, but only if the inspectors are given the tools they need to properly utilize the devices. This fact must be a consideration in the development of the Final Rule.

Conclusion

As Congress considers the future of CMV safety, we believe there are a number of opportunities to make changes that will help advance our collective goal of reducing crashes and saving lives. Giving the States more flexibility to design and implement programs that improve CMV safety, while meeting the long list of MCSAP requirements, despite waning resources. Consolidating and streamlining the grants will reduce the administrative burden on States and provide more stability. This will enable States to spend more time and resources on doing the work of their program. This look ahead also provides an opportunity to establish requirements for FMCSA to routinely evaluate and update federal regulations, providing enforcement and industry with better clarity, which will save everyone time and resources. Congress should also consider eliminating or minimizing the number of legislative exemptions in the future. Finally, maximizing technology and improving data quality can help capitalize on existing enforcement activities, as well as industry investments. It should be noted though, that any new requirements on States or industry much be developed with the enforcement community in mind. Deployment of systems and devices will only be effective if they are functioning and being used properly.

One last note – we've provided a number of recommendations on how to improve the future of CMV safety, which we hope will be helpful as this Committee works on the next transportation bill. However, it must be noted that, even with streamlined grants, clear regulations, and full use of all available technology, the State programs cannot be effective without adequate funding. Funding for State CMV programs must increase if we are to keep pace with a growing motor carrier industry.

Commercial Vehicle Safety Alliance

promoting commercial motor vehicle safety and security

Additional Comments for the Record
Major William "Bill" Reese
President, Commercial Vehicle Safety Alliance

on

"The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation"

The issue of traffic enforcement was brought up at the April 29, 2015, Transportation & Infrastructure Committee's Highways and Transit Subcommittee hearing on "The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation. While the message that 'traffic enforcement with an inspection is more effective so the States should do more to combat driver behavior' seems fairly straight forward, it is not so simple. This issue is a complicated one and we do not yet have all the information on what the perceived decline in traffic enforcement coupled with an inspection really means. Simply put, there is not yet a full understanding of the size, scope, and impacts of the perceived data gaps. CVSA strongly cautions against setting policy based on incomplete and misinterpreted data.

First, there are inconsistencies in what 'traffic enforcement' means, which makes it difficult to compare and draw informed conclusions. The recent perceived decline in traffic enforcement couple with an inspection seems to coincide with a significant change in how enforcement data is collected. For example, 'traffic enforcement' for many jurisdictions refers to citations issued for moving traffic violations (more on this below). Prior to the 2007 Commercial Vehicle Safety Plan (CVSP) submissions by the States (October 1, 2006 - Present), all traffic enforcement conducted by a MCSAP inspector had to be coupled with an inspection report. An inspector who stopped a vehicle on the road would check the 'traffic enforcement' box on the inspection report and it would be coded as such. However, for others, 'traffic enforcement' means ANY inspection initiated on a moving vehicle, regardless of the reason for the stop. In other words, NOT just moving violations – any vehicle stopped roadside. As a result, that data set includes vehicles stopped for inoperative brake lights, a visible flat tire, a cargo securement issue, etc. The occurrences of 'traffic enforcement with an inspection' were higher in the past because that data set included a broader definition of 'traffic enforcement'.

It is our understanding that FMCSA made this change, in part, because the data showed there is value in doing traffic enforcement and inspectors wanted to be able to issue a speeding ticket or some other citation for a moving traffic violation without having to initiate a full safety inspection. This flexibility

6303 Ivy Lane Suite 310 Greenbelt, MD 20770-6319
Phone: 301-830-6143 Fax: 301-830-6144 www.cvsa.org

for the States is critical and allows them to tailor programs to address issues in their States, rather than following a 'one size fits all' approach to enforcement on a very diverse industry spread across a diverse country.

Second, there is a lot of traffic enforcement data that is not captured in the federal database and therefore is not being measured. This includes traffic enforcement conducted by a MCSAP inspector that is not coupled with an inspection, as well as traffic enforcement on CMVs by non-MCSAP officers. The full scope of the amount of this data is unknown, and FMCSA is attempting to quantify this now with the States.

The States continue to focus on those items they believe will have the most impact on CMV safety and crash performance. This includes having a traffic enforcement component to their safety programs, as required as one of the numerous requirements of the MCSAP.

The argument that more traffic enforcement with an inspection would produce better results than the current approach is based on incomplete data. While it is true that today crashes are most often tied to driver behavior, this does not mean vehicle fitness is not also critical. We have reached this point in safety because of a rigorous driver/vehicle inspection program. What many people may not fully appreciate or understand is every vehicle stop at the roadside includes an inspection of the driver. More traffic enforcement tied to an inspection and fewer inspections alone would mean more inspections that include just a discussion with the driver and a brief walk around of the vehicle. Given the role a vehicle's brakes play in mitigating or even preventing a collision from occurring, when working properly, coupled with the fact that inspection data consistently show a 20% out of service rate for brakes on CMVs, the idea that some believe inspectors should spend less time under these vehicles is concerning. Driver behavior may cause crashes, but how a vehicle's brakes (and other systems) perform when a crash is imminent is a significant factor in the number and severity of crashes that occur.

It should also be noted that traffic enforcement is but one component of a State's commercial vehicle safety program. The States are responsible for delivering on the entire MCSAP program, not just pieces of it. Requiring that a portion of resources be focused on specific activities mean other activities that are required components of the program – activities that Congress and FMCSA have tasked the States with completing – cannot get done.

The way to effectively measure a State's performance regarding crash reductions is through the Commercial Vehicle Safety Plans, which provide a comprehensive look at the strategies being employed to generate crash reductions, as well as metrics. Each year these plans are reviewed and approved by FMCSA and the States are measured on their performance. CMV safety is a complicated

area of highway safety, and as such it requires a multi-pronged approach at the State level. Looking at only one component of the State program out of context without the rest of the program in mind is not appropriate.

Finally, it should be noted that the men and women who conduct CMV safety inspections are highly trained individuals. Federal and State tax dollars have been spent to conduct this training, and there are only about 13,000 of them in all of North America. These are the only people who are qualified and permitted to conduct CMV driver/vehicle inspections and enforcement the Federal Motor Carrier Safety Regulations (FMCSR) and Hazardous Materials Regulations (HMR). Meanwhile, each and every sworn law enforcement officer is trained and able to conduct traffic enforcement on all vehicles. Speeding is speeding, regardless of the vehicle weight and number of axles. The most responsible use of federal taxpayer dollars is to allow those specially trained CMV inspectors to focus on enforcing the FMCSRs and HMRs, and to conduct traffic enforcement activities on CMVs, as dictated by their program needs and resource availability, while also allowing other law enforcement agencies to handle driver behavior through other grant programs administered through DOT.

TESTIMONY

BRIAN SCOTT

PRESIDENT, ESCOT BUS LINES, LLC

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

HOUSE TRANSPORTATION AND INFRASTRURE

APRIL 29, 2015

'THE FUTURE OF COMMERCIAL MOTOR VEHICLE SAFETY: TECHNOLOGY, SAFETY INITIATIVES, AND THE ROLE OF FEDERAL REGULATION"

Chairman Graves, Ranking Member Norton, Members of the Subcommittee; on behalf of members of the United Motorcoach Association, thank you for calling this hearing today and the opportunity to represent the bus and motorcoach industry in my testimony. This Committee has a long and distinguished record of promoting commercial motor vehicle safety and a reasonable and defensible regulatory climate.

The United Motorcoach Association (UMA) is North America's largest association for bus and motorcoach companies providing charter, tour and regular route services. Founded in 1971, UMA is comprised of over 900 professional bus and motorcoach companies who provide transportation services in all fifty states, Canada, and Mexico; and more than 250 suppliers, manufacturers, and travel partners. Membership represents the full spectrum of bus and motorcoach operations; from small family charter and tour companies - to nationwide scheduled and commuter service operations. 90% of our members are small businesses, with 10 units or less. Many companies, like mine, are second or third generation family businesses. Approximately one-third of our members also operate school buses. Headquartered in Alexandria, VA, UMA is dedicated to protecting and promoting the interests of the entire bus and motorcoach industry and providing its members with programs and services to enhance safety and success of their operations.

I am the President of Escot Bus Lines; an established, second generation family owned and operated charter, contract transportation, and scheduled service bus operation with offices and facilities located in Tampa Bay (Largo), Orlando, and Sarasota, Florida. Not unlike most bus companies when they first start out, Escot began in 1983 when my parents purchased two mini-buses. Currently we operate a fleet of 84 motorcoaches, transit, and mini-buses serving a varied clientele with equally diverse services ranging from cross-country tours to employee-shuttle systems to working with local schools, senior citizen groups, churches, etc. in the local Tampa Bay and Central Florida communities. Our company has an active role in various capacities with

emergency services. In particular, Escot provided buses for power crews in the Florida panhandle and Mississippi areas after hurricanes Katrina and Rita and in Central and South Florida after Hurricane Charlie. Escot currently has emergency service agreements with an array of retirement communities in the Tampa Bay and Central Florida areas. I serve on the Board of Directors of UMA having previously served as Chairman of the Board, and I currently serve as the Chairman of the Risk Management Committee. I am a former Chairman of the International Motorcoach Group, President of the Florida Motorcoach Association and Director of the Global Passenger Network. I currently serve as a member of the Pinellas Suncoast Transit Authority Board of Directors with additional responsibilities on the Finance and Performance Management Committee, and Vice Chairman of the Pinellas County Local Coordinating Board for the Transportation Disadvantaged.

Mr. Chairman, I want to frame this conversation from one critical perspective - bus and motorcoach travel is extremely safe. And while we all agree that even one accident is one too many, the bus and motorcoach industry averages approximately 20 fatalities annually[1] while operating in a highway environment that yields nearly 34,000 fatalities annually. Percentage-wise, that is less than 1/10 of 1 % of the annual highway fatality toll. This remarkable safety record is no small achievement and is largely attributable to the vigilance and dedication of the men and women that drive, maintain, own, and manufacture our equipment. In a nutshell, our business is moving people safely, timely and economically. Most importantly, if we are not safe, we don't have customers. Contributing to our professionals' personal commitment to safety, we are a heavily regulated industry at Federal and state levels. Moreover, while our equipment is largely operated out of the direct oversight of management, we must acknowledge the men and

[1] Number of bus occupant fatalities in crashes involving cross-country, other, and unknown buses with a GVWR > 11,793 kg (26,000 lb) except for transit and school buses (categorized by bus body type). (FARS 2000-2009 data files.)

women of law enforcement that dutifully enforce the myriad of laws and regulations that impact bus and motorcoach travel on our nation's roads and highways.

The Federal Motor Carrier Safety Administration also plays a critical role in facilitating interstate commerce and ensuring the safety of commercial motor vehicles. We supported its creation 15 years ago and have worked closely with the agency on a myriad of bus and motorcoach safety issues over that time. However, UMA is becoming increasingly concerned that the culture of the agency and many of its actions in recent years have not served the cause of public safety and have been harmful to existing bus and motorcoach carriers and the continued growth and health of the industry. UMA supports active and legitimate enforcement of federal regulations to address unsafe practices through corrective actions; and as a last resort, termination of operating privileges. However, it appears to UMA the agency has declared war on the industry as a whole, and we are concerned enough to worry about the continued viability of this important transportation sector. Chairman Graves, Ranking Member Norton, Members of the Subcommittee, I have doubts that my parents, Louis and Diane Scott, could start Escot Bus Lines today and survive under the current regulatory environment.

For the first time I can recall in my thirty-year career, today the nation's motorcoach industry is in decline. A recent census report by John Dunham & Associates for the American Bus Association Foundation[2] concludes that in 2013 the number of interstate passenger carriers decreased by nearly 5%; a net loss of 153 carriers in one year alone and 177 since 2011. Total passenger trips by motorcoach in the U.S. dropped 5.1 percent in 2013, falling to 605.1 million from 637.4 million in 2012. Total passenger trips dropped by a whopping 32 million in the past year alone.

---

[2]Motorcoach Census - A Study of the Size and Activity of the Motorcoach Industry in the United States and Canada in 2013 John Dunham & Associates for the American Bus Association Foundation – March 12, 2015

UMA believes the regulatory climate at FMCSA is a significant contributing factor[3]. There are many real life examples of carriers with longstanding compliant histories that have been targets of overzealous enforcement or the agency taking an inordinate amount of time to process administrative remedies, leading many carriers to cease operations through bureaucratic inaction. And make no mistake, if the bus and motorcoach industry ceases to exist, most of our customers, which include students, athletes, retirees and others who rely on our services, will be forced to travel by private passenger automobile; a significantly less safe mode of travel.

We appreciate this Subcommittee's attention to the future of commercial motor vehicle safety and the impact of technology, safety initiatives, and the regulatory climate, to which I will focus the majority of my comments.

First, let's look at the impact of equipment mandates and safety technologies.

When I testified before this Committee in 2007, the cost of a motorcoach was $425,000. A standard motorcoach today can exceed $600,000. In the last ten years, Congress directed an industry-supported initiative that concluded, after research and testing, the inclusion of three-point seatbelts on all new motorcoaches. Electronic stability control is now a routine component on most motorcoaches and an electronic logging device mandate is only a few months away. Currently, the National Highway Traffic Safety Administration is considering new regulations addressing roof strength, window glazing, fire mitigation, and emergency egress. Some passenger carriers are currently assessing evolving technologies such as lane departure warning and collision warning devices for effectiveness in avoiding crashes. There are many technologies and safety equipment that can make motorcoach travel incrementally safer; but mandates must be supported by research and testing, and balanced with additional costs and

[3] From 2012 to 2013, the industry decreased in size by 153 companies. Of the decline, 71.2% was due to companies going out of business, 18.3% was due to companies discontinuing motorcoach service, and 10.5% was due to mergers and acquisitions in the industry. - Motorcoach Census - A Study of the Size and Activity of the Motorcoach Industry in the United States and Canada in 2013 John Dunham & Associates for the American Bus Association Foundation – March 12, 2015

impact on the industry. Customers select bus and motorcoach travel for its convenience, efficiency, and economy as well as safety. Well known for razor thin margins, the industry and its customers' ability to absorb increased costs associated with mandates must always be a consideration.

A greater issue of concern to UMA is the current regulatory climate at the FMCSA.

I would like to highlight four primary issues of concern: overzealous regulatory enforcement and lack of due process, the Compliance, Safety and Accountability (CSA) program, the rulemaking proceeding to increase minimum levels of financial responsibility, and delays in processing new entrant applications. Let me share some real-life examples of the negative impacts of the current hostile enforcement posture of FMCSA.

In January 2003, Baldwin Nicholson established Lakim Bus Service in Moncks Corner, South Carolina with one motorcoach to supplement his income operating a diesel mechanic shop. Mr. Nicholson is a respected member of the bus and motorcoach community and over the last decade has served on the Motorcoach Association of South Carolina Board of Directors and its various committees. A decade later, Mr. Baldwin's daughter demonstrated a growing interest in the business and the fleet grew to three motorcoaches. The company received "Satisfactory" ratings from FMCSA as a result of routine Compliance Reviews in 2003, 2007, and 2011. In September 2014, Lakim Bus Service received what Mr. Nicholson assumed would be another routine Compliance Review. It was not. Through an interpretative documentation error and other findings, such as a new emergency window that the inspector recorded as not working, (Mr. Baldwin still disagrees with the assessment, and the window functioned as specified on a subsequent inspection) he was notified his company was now "Unsatisfactory". He was summarily ordered to cease operations in 45 days barring an acceptable corrective action plan. He submitted a corrective action plan in a timely manner. However, FMCSA failed to prioritize

Mr. Nicholson's corrective action plan, resulting in his company ceasing operations per the Federal order on the 45th day, despite customer, employee, and loan commitments. There are no requirements for FMCSA to review a corrective action plan on a timely basis. Seventeen days after Mr. Nicholson was ordered to shut down his operations, he was advised that his corrective action plan was now accepted and they were upgrading his rating; however, since 45 days had passed his authority could no longer be reinstated and he must now apply for NEW operating authority – essentially sending him to the "end of the line". FMCSA acknowledged receipt of Mr. Nicholson's NEW application for interstate authority on December 12, 2014; however, Mr. Nicholson's company is languishing today, exhausting financial savings and a decade of customer and company goodwill. Nobody at FMCSA will even tell him why his application is delayed or when he might anticipate approval. Mr. Nicholson is considering leaving the business entirely. FMCSA's actions – or rather inaction – is inexcusable, unnecessarily punitive, and surely exceeds Congressional intent.

Another example is bus driver Jeff Rodgers, who dreamed of one-day owning his own bus company. Together with his wife Judy, and along with family support, that dream materialized over two-decades ago when they founded Southeastern Tours in Greenville, North Carolina. Similar to Mr. Nicholson, Jeff and Judy passed Compliance Reviews with satisfactory ratings in 2003, 2005, and 2010. In August 2013, they were scheduled for what they thought would be another routine Compliance Review. This Compliance Review began very differently when the FMCSA representative stated, "I'm going to warn you now that we have done five audits like this and we've put four out of business." Paperwork snafus in combination with other correctible deficiencies, despite a longstanding compliant history, led to the company being placed out-of-service, and like Mr. Nicholson, they were also forced to reapply for new operating authority. Meanwhile, with no operating revenues, the company's finances rapidly deteriorated and like most small business owners, so did their personal finances. A long trail miserable trail of

employee layoffs, equipment repossessions, foreclosures, and unpaid creditors are the hallmark of FMCSA's unwarranted out-of-service orders. Despite hiring consultants, attorneys, and submitting corrective action plans, today Jeff and Judy Rodgers remain on the sidelines with an uncertain future. A twenty year satisfactory safety history should mean the company was doing most things right and that putting them out of business was not warranted.

It is Congress' intent for FMCSA to provide oversight of a safe and thriving industry, yet how many companies have now failed financially while waiting some undeterminable time for FMCSA to acknowledge their corrective actions. Surely, Congress wants FMCSA to direct companies to correct deficiencies when they find them, but not to put companies' with longstanding good safety records out-of-business - the equivalent of the corporate death penalty. Marked as Exhibit "A" and attached to this testimony are the findings[4] of U.S. Administrative Law Judge Richard C. Goodwin regarding an Imminent Hazard/Out-of-Service Order issued to DND Trucking. The "Findings of Fact" should send tremors through this Committee, every motor carrier, and every U.S. citizen. Perhaps the decision is best summarized in one sentence: "The [FMCSA] Field Administrator's allegations are ***unsupported by the totality of the evidence and testimony*** in this case (emphasis added). UMA encourages Congress to investigate abuses of administrative authority by this agency.

The FMCSA's Compliance, Safety, Accountability program, otherwise known as CSA, is another concern. Like most motor carrier representatives and professionals, UMA supported the creation of this program rolled out in 2010 as a data-driven way to identify carriers more at risk of crashes. However, the methodology and implementation is so writhe with inaccuracies and incomplete information that it is only marginally effective for targeted enforcement intervention. UMA's largest concern is FMCSA has chosen to publicly promote the inaccurate and often

[4] In The Matter Of: D N D INTERNATIONAL, INC. (U.S. DOT No. 1434005) Docket No. FMCSA-2014-0159 (Imminent Hazard OOS Order)

misrepresentative data and Safety Measurement System (SMS) scores to customers who have no ability to neither interpret such data nor discern whether a carrier is truly safe or unsafe. In fact, the misinformation is causing many customers to erroneously choose carriers who actually may be less safe. The bus and motorcoach industry, in concert with our colleagues in the trucking industry, collectively appealed to Secretary Foxx last summer for retraction of these scores from public view, only to be declined. FMCSA continues to actively promote use of the program with our customers, most recently with a new mobile application.

The CSA system's methodology is flawed by using data that is not predictive of motor carrier crashes. Low-level violations such as "emergency exit markings" and minor paperwork errors such as a driver inadvertently failing to record his last stop, and the recording of non-preventable crashes, are not only scored against a carrier but result in misleading safety scores. Perhaps more important to Congress is that these minor violations are utilized as indicators or substituted for effective risk mitigation when professionals know that basic traffic violations are the true predictors of crashes. Data consistently shows that future crash risk is primarily driven by unsafe operation in traffic such as speeding, following too close, failure to use or improper signal, improper passing, or erratic lane changing.

If a driver of a private passenger automobile crashes into a bus legally stopped at a red light, nobody believes the bus driver or company should be held accountable for a non-preventable crash; yet FMCSA insists on showing these crashes to the public as a recorded fatal crash absent any specific context. While UMA knows collecting crash data is important for possible risk mitigation in the future, the display of non-preventable crashes to the public is malicious, irresponsible, discouraging for motor carriers and misleading to the public.

CSA's basic methodology is seriously flawed and requires complete restructuring rooted in actuarial science, not politics or misguided desires to keep doing the "same-old, same old". At

best, CSA confuses the public in its ability to select carriers, does not appropriately address the differences between passenger carriers and property carriers or allow them to be effectively compared, and does not take into account the vast discrepancies in volume of inspections in some areas as opposed to others. These flaws are not just UMA's views, but the government's own auditing agency agrees. The Government Accountability Office (GAO) report of February 2014 concluded that "...FMCSA identified many carriers as high risk that were not later involved in a crash, potentially causing FMCSA to miss opportunities to intervene with carriers that were involved in crashes". The report recommended that FMCSA revise their SMS methodology. GAO's Director testified just two months ago before the Senate Commerce, Science and Transportation Committee and stated that CSA's Safety Management Scores should be shielded from public view. GAO also recently castigated FMCSA for putting out a mobile application to make it easier for prospective customers to view flawed information into customers' hands. Chairman Graves, Ranking Member Norton, Members of the Subcommittee, I suggest to you that the airlines would never stand for such flawed misrepresentations of their companies to the public and nor shall we. UMA urges the Committee to direct FMCSA to remove the SMS scores and raw data from public view immediately and resolve the foundational and structural problems with CSA. UMA supports a bill introduced by a Member of this Subcommittee, Congressman Barletta, The Safer Trucks and Buses Act of 2015 (HR 1371), as a good first start; and every day that passes is a day that more businesses fail under this deeply flawed system.

Surely the single largest threat to passenger carriers today is FMCSA's decision to propose a potentially massive increase in minimum financial responsibility limits for passenger carriers. Current limits set in statute are $5 million per vehicle for vehicles with 16 passengers. MAP-21 directed FMCSA to study the adequacy of current limits and submit their findings in a report to Congress, which, like every state legislative body in the Nation, has historically established

minimum financially responsibility limit requirements. The agency issued the report last April and failed to include any analysis of passenger accident claims data or consultation with the industry's insurance carriers. The report's limited data focused exclusively on trucks; yet suggests that limits well in excess of $20 million would be appropriate for large buses - a 400% increase! After releasing their required study, FMCSA announced that a rulemaking proceeding to increase limits was now a high priority, despite no directive from MAP-21 to do so and superseding other MAP-21 directives. In November of 2014, FMCSA released an Advanced Notice of Proposed Rulemaking seeking comments; and further stated their intention to finalize the rule by the end of the year. Insurance data indicates current limits cover all but a tiny fraction (1/10 of 1%) of accidents. The suggestion that passenger carrier minimum financial responsibility limits should be increased 400-500% or more without any study whatsoever of the industry's claims and accident history and adequacy of current limits is unconscionable. One major passenger carrier insurer has stated that just doubling the current limits from $5 million to $10 million would result in a 60% increase in premiums. The proposal is uniformly opposed by passenger carriers and perhaps surprisingly, also by the passenger carrier insurance industry. It is notable that a 2014 USDOT/Volpe Center study on which the FMCSA report to Congress was based states. "There is no realistic dollar amount that will necessarily ensure that every possible crash victim is fully compensated". The report also fails to make any correlation between increased insurance limits and improved safety, and yet FMCSA casts this proposal as a safety initiative.

UMA believes current minimum levels of insurance that have been set by Congress are adequate and opposes the rulemaking proceeding. UMA supports a bill introduced just this week by a Member of this Subcommittee, Congressman Scott Perry, that clarifies that minimum levels should be set by Congress and directs FMCSA to do a comprehensive study of current limits and

accident claims history of passenger carriers, consult with both the bus and insurance industries on the study, and submit the study to Congress.

Finally, UMA is concerned about the delays in approving new entrant applicants for operating authority. Established in August 2008, FMCSA's vetting program is designed to assess the ability of an applicant for new operating authority to comply with Federal Motor Carrier Safety Regulations and, in part, to determine whether a new applicant may be an individual or company previously placed out-of-service by FMCSA, or may still owe fines for past violations. UMA supports the intent that these applicants deserve additional scrutiny; however, a 2012 GAO study found that over 98% of new entrant applicants did not display any attributes of these so called "chameleon or reincarnated carriers" and that similar results could be accomplished more effectively in a much shorter period. In their zeal to afford additional scrutiny for the less than 2% that may exhibit certain characteristics, and by delaying approval of new entrant applications, there appears to be an adverse impact on the growth of new and safe carriers to the industry. If potential new bus and motorcoach company owners are discouraged by the regulatory morass they must hurdle to enter the industry, the industry ceases to thrive, creating a bleak future for existing carriers. UMA requested specific information about new entrant applications from FMCSA in August 2014 under a Freedom of Information Act request. We have yet to receive a response. UMA is aware that many new entrant applicants are compelled to wait as long as six or more months for approval granting operating authority with no communication from FMCSA as to when they may anticipate receiving such authority or why their application is delayed. In the meantime, they are attempting to arrange financing to purchase equipment, hire drivers, line up customers and secure insurance. The financial drain of interminable waits from the federal agency charged with granting authority is having a negative impact. While FMCSA advises most applications are eventually approved, UMA believes that many prospective applicants who endure financial losses while waiting for approval simply

abandon the pursuit. UMA believes there should be expedited review and due process protections in the law for new entrant applicants. UMA supports a provision requiring approval or disapproval within 30 days of submission. In addition, prior to disapproving an applicant, FMCSA should be required to provide a detailed explanation stating which criteria the carrier has failed to satisfy. There should also be an appeal process on the decision. Without a Congressional mandate to correct these deficiencies, it is clear FMCSA will continue to discourage new entrant applicants and the capital investments and job expansion our Nation so desperately needs today.

In conclusion, the bus and motorcoach industry remains a vital component to our Nation's economy. The essential service our industry affords provides access to jobs, education, and healthcare and is a critical component to our Nation's travel and tourism industry.

The United Motorcoach Association stands ready to assist this Subcommittee, Full Committee and Congress create a regulatory climate at FMCSA that ensures safe practices by drivers and operators, reasonable regulations grounded in sound science and testing and, strong but fair enforcement of regulations, that will improve the safety for our passengers and the travelling public, at the same time supporting a vibrant and growing passenger transportation industry. We do not believe these goals are mutually exclusive.

Chairman Graves, Ranking Member Norton, Members of the Subcommittee, on behalf of UMA and the dedicated men and women who work hard every day to assure every passenger arrives at their destination safely, I thank you for inviting me here today. We are confident this hearing will contribute positively to the discourse on bus and motorcoach safety and look forward to working with you on these important issues.

TESTIMONY
OF
LaMont Byrd, Director
Department of Safety and Health

Before the

U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit

"The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation"

April 29, 2015

International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 624-8741

Chairman Graves, Ranking Member Norton, and members of the Subcommittee:

My name is LaMont Byrd, Director of Safety and Health for the International Brotherhood of Teamsters (IBT). As a union representing more than 600,000 members who daily perform jobs along America's roadways, we welcome the invitation to testify today on "The Future of Commercial Motor Vehicle Safety." Our members contend daily with crumbling roads, long hours, bigger trucks, increasing congestion, and insufficiently trained drivers, all of which undermine safety and add pressure to an already stressful occupation.

The Teamsters Union strongly supports the enactment of a long-term Surface Transportation bill, and we hope that a consensus can be found to fund much needed infrastructure repairs and improvements. It is imperative that we address the deficiencies in our transportation system in order for the U.S, to compete in the global economy. Congestion on our highways costs billions in lost productivity and additional fuel expenses, not including a value on time lost with family. And deteriorating highways and bridges add to the cost of maintenance of vehicles – whether they be a personal automobile or a fleet of tractor trailers.

As the Committee moves forward, it is equally important that we do not use this legislation to compromise safety on highways that are overly congested with distracted drivers, overly tired commuters and truck drivers who are all experiencing more time in traffic. We hope that a balance can be found to address the concern of overly burdensome regulations with what's needed to maintain our current level of safety on our highways.

Hours-of-Service Regulations

Commercial Motor Vehicle operators endure many pressures while driving and already work long hours. We cannot afford to add to driver fatigue by rolling back hours-of-service regulations which were carefully crafted over the course of more than two decades of rulemaking, several court challenges, thousands of pages of research and studies on proper sleep habits, rest periods, fatigue, and the best ways to ensure that truck drivers operate safely on our highways. No stakeholder is entirely satisfied with the final Hours-of Service (HOS) rule, but with any regulation, the Federal Motor Carrier Safety Administration strived to strike a fair balance that maintains a safe work environment for drivers and yet isn't overly burdensome to the operations of motor carriers. Initially, the Teamsters Union had gone to court over the increase in driving time from 10 to 11 hours and took issue with the 34-hour restart provision. In fact, the union felt so strongly that 34 hours did not provide adequate rest that a majority of our members covered under our National Master Freight Agreement (NMFA) are not subject to the 34-hour restart provision. A Memorandum of Understanding was signed by the signatories to the NMFA that prohibits those companies from subjecting their drivers to the restart provision. With that exception, other Teamster members do operate under the restart provision, but its use once a week versus continually goes a long way in combating driver fatigue.

We have seen recently the effects of exhaustion by pushing drivers to the limits of the hours-of-service regulations. The high-profile accident last June which injured actor-comedian Tracy Morgan brought to the public's attention the danger of tired sleep deprived truck drivers operating 80,000 lb. rigs on our highways. The driver of a Walmart tractor trailer fell asleep and rammed into the limousine bus carrying

Morgan and his entourage, causing 1 fatality and seriously injuring the actor as well as 3 others. Despite countless other fatal accidents involving fatigued drivers, this one accident shined a spotlight on the issue of compliance with HOS regulations and driver fatigue. The driver admitted that he had been awake for the previous 24 hour period and that he fell asleep just prior to hitting Morgan's bus. According to the National Transportation Safety Board's (NTSB) preliminary report, the truck driver was just 28 minutes shy of the maximum 14-hour on-duty period when the collision occurred and had he reached his destination, likely would have exceeded his maximum on-duty limit.[1]

Unfortunately, provisions to suspend the current limitation on the use of the 34-hour restart provision and the mandated two consecutive 1am to 5am rest periods were included in the Consolidated and Further Continuing Appropriations Act, 2015. Limiting the restart to once every 168 hours plays a key role in holding down the number of hours that a driver can work in a week. Without this limitation, the number of hours that a driver can work is increased from the current 70 hours per week to over 80 hours per week – twice the number of hours that most Americans work in a week's time. And the 34-hour restart is 14 hours short of the normal weekend that most workers have off to rest, recuperate and tend to personal business. Most of us cherish our weekend—those 2 days off that we can spend with our families, but imagine returning to work on a Sunday afternoon instead of Monday morning. That's what truck drivers face with the 34 hour restart.

[1] [1] National Transportation Safety Board (NTSB), *Highway Investigation Preliminary Report* (NTSB, 2014), http://www.ntsb.gov/investigations/fulltext/HWY14MH012_preliminary.html.

Today, our roads are more congested than ever. Drivers have less time to make critical decisions on changing lanes and shorter distances to slow down or stop. Drivers must be more alert, and driving in congested traffic is more stressful and tiring. Yet, without the limitation on the restart provision, drivers can be forced to work longer and longer hours, putting their safety and that of the public at greater risk. The Teamsters Union strongly opposed this change in the current restart provision and we encourage the Committee not to include any extension in the Surface Transportation bill.

Suspending the required consecutive rest periods of 1am to 5am is an equally dangerous step. Numerous studies have shown that back-of-the clock work is more tiring and can lead to cumulative fatigue. This consecutive rest period requirement is designed to give drivers rest when their body clock tells them they need it most – during their regular circadian rhythm. Those advocating for suspending this part of the regulation have argued that more trucks will be on the road during daylight hours when roads are more congested. That would suggest that every truck driver would start his truck at 5:15 am and hit the road simultaneously. For the most part, work and delivery schedules vary. Not all truck drivers start their work day at the same time. In addition, while there is less automobile traffic at night, there are also many trucks pulled off the side of the road, in truck plazas, and at rest stops, with drivers asleep, mostly because their body clock is telling them that they are tired. The 1am to 5am provision is an important element in defeating cumulative fatigue. Understanding that the DOT Driver Restart Study is underway, Congress should not consider making either of these HOS provisions permanent, both of which diminish highway safety.

Electronic Logging Devices (ELDs)

The FMCSA has proposed the mandatory use of ELDs for motor carriers and the Teamsters Union believes that ELD technology may have utility in ensuring compliance with the Hours of Service (HOS) regulations. Fatigue is often an under-reported cause of crashes involving large trucks. However, in our view, the use of the technology is not a panacea relative to compliance with the HOS regulation. ELDs are designed to automatically capture information regarding the time during which a CMV is operating, however, recording devices will not automatically capture data concerning "on duty, not driving" time. The driver will have to manually input this information, thus allowing an unscrupulous individual the opportunity to input erroneous information. Further, we have concerns about how drivers will be identified as actually being the operator of the ELD-equipped CMV. While there has been discussion about methods that could be employed to identify drivers, it is possible that some methods could be defeated, thus allowing a driver who has no available driving hours to operate while using another driver's identity. In addition, we have serious concerns about other information that can be collected by the "black box" technology. Our experience has been that carriers utilizing this type of technology want to combine it with Global Position Satellite (GPS) technology and collect information on the "real time" position of the vehicle, in addition to information on various operational criteria (engine speed, braking operations, etc.) Some carriers have attempted to use this information to critique the driving patterns of drivers, including forcing drivers to drive faster and make fewer and shorter stops and pressuring drivers to maintain the posted speed limit in a particular area, although there may be weather or traffic conditions that preclude the driver from doing so. In extreme situations, motor carriers have attempted to use the information to implement disciplinary actions against drivers

for failure to follow a management directive. This practice has contributed to job stress (which may contribute to driver fatigue), overall job dissatisfaction, and in some instances has an adverse impact on safety. We hope that these issues will be resolved with the issuance of the final rulemaking so that ELDs will be used for HOS compliance only and not to monitor or measure the "productivity" of the driver.

Speed Limiters

NHTSA data indicates that speeding was a contributing factor in 20 percent of all fatal crashes in 2012. Many commercial motor vehicles (CMVs) operated by Teamster members are currently equipped with speed limiting devices, and our drivers report no significant problems or safety hazards associated with the use of such equipment. However, in some instances, the union and motor carriers negotiated contract language that requires the vehicles to be able to reach an agreed to speed to ensure that the vehicles can be safely operated on highways and throughways. For our LTL sector, limiters are set at 62mph. The union is particularly concerned that the vehicles be able to attain sufficient speeds to safely merge onto highways and pass other vehicles, if necessary. Further, CMVs should also be able to maintain safe speeds while traveling up hills and inclines. The Teamsters Union could support the industry-wide use of speed limiters under those conditions and look forward to reviewing the upcoming rulemaking.

Truck Size and Weight

In 2012 it was estimated that more than 3,802 fatalities involving trucks occurred.[2] That number is unacceptably high and the United States cannot afford further compromising safety by increasing the lengths and weight of commercial vehicles. Increased truck size and weight not only causes greater wear on highways but also stress on drivers who need greater stopping distances which are hard to judge and perform on congested roadways. Likewise, entrance and exit ramps are not designed for longer, heavier trucks and may cause issues for drivers attempting to get up to speed in order to merge.

Map-21 authorized a Comprehensive Truck Size and Weight study to examine the effects of bigger heavier trucks on highway safety and the infrastructure. That Comprehensive Study is underway, and Congress should not be entertaining any individual state or highway exemptions or piecemeal special interest exemptions until it sees what the results are. To preempt this study Congress would be turning its back on a study that it authorized. For these reasons, the Teamsters Union opposes exemptions like those for Kentucky, Wisconsin and Mississippi passed in the Consolidated and Further Continuing Appropriations Act, 2015.

While considering ways to improve highway safety, this Committee must also meet the challenges of rebuilding our deteriorating highway and bridge infrastructure and meet our country's transportation needs of the future. The issues of truck size and weight play a central role in that decision-making process. Proponents of heavier trucks claim that adding a sixth axle will mitigate highway

[2] National Highway Traffic Safety Administration (NHTSA), *Fatality Analysis Reporting System: Fatal Crashes by Vehicle Type* (Washington, D.C.: NHTSA, 2014), http://www.fars.nhtsa.dot.gov/Vehicles/VehiclesAllVehicles.aspx.

pavement damage. While that may be true if the axle is employed properly, a sixth axle does nothing to alleviate the increased weight on our nation's bridges, half of which are more than 40 years old with one-in-four classified as structurally deficient or functionally obsolete.

The claim that increasing trucks weights will result in fewer trucks on the road is unfounded. Each time there has been an increase in truck weight, truck traffic has grown, as shippers take advantage of cheaper rates and divert freight from rail to trucks. Our current highway system is not designed for bigger heavier trucks. These trucks need longer merge lanes to get up to speed, redesigned on-and-off ramps to accommodate longer combination vehicles, and greater stopping distances on a highway network that becomes more congested every day. The total stopping distance for an 80,000 lb. truck traveling at 55mph is 335 feet compared to 225 feet for a passenger car. At 65mph, that stopping distance for a truck increases to 525 feet versus 316 feet for an automobile. As you can imagine, it is very difficult to judge those distances in congested traffic.[3]

We also want to make clear that the Teamsters Union is strongly opposed to increasing 28 foot double trailers to 33 feet. Adding 10 feet to an already elongated tractor-trailer combination compromises highway safety. As stated previously, most on-and-off ramps and merge lanes have difficulty accommodating current configurations. Action by Congress could force 39 states that currently do not permit twin 33's to operate now. Advocates for the increase have argued that 33's are safer than 28 foot doubles, but there is no objective study or data that confirms this assumption.

[3] National Safety Council' Defensive Driving Course for Professional Truck Drivers.

The trucking industry has used its influence in the state legislatures to increase both truck weights and trailer lengths on non-federal highways. That in turn has led to demands from frustrated state residents, who don't want to share their local roads with bigger trucks to increase truck size and weight on the interstate system, so that big truck traffic can be diverted from state roads that aren't equipped to handle it.

The Teamsters Union continues to support the *Safe Highways and Infrastructure Preservation Act,* or SHIPA. This legislation extends the current state and federal weight limits on the Interstate system to the non-Interstate highways on the National Highway System and prohibits further increases. The legislation recognizes and protects the states' existing grandfathered rights to allow certain differences in truck axle and gross weights than the maximum weight allowed in federal law. It essentially takes a "snapshot" of what states currently permit and freezes those weights and lengths. We believe this action will improve safety and protect our infrastructure investment.

Comprehensive Truck Size and Weight Study

The Teamsters Union, along with other safety community stakeholders, has been working with the Department of Transportation to address significant deficiencies and weaknesses in the process and methods used to conduct the Comprehensive Truck Size and Weight study mandated by MAP-21. This study to determine the impact of longer heavier trucks on safety and infrastructure will be the authoritative document on this issue for the next decade. It will guide many of the policy decisions that Congress makes in this area for years to come. For that reason, we have asked that significant issues raised by the Transportation Research

Board Peer Review Committee and us be immediately addressed before the study moves forward.

Unfortunately, the provision mandated that the study be completed in a two-year period. The last truck size and weight study took six years to complete, and so, from the beginning, DOT was under extreme time limitations to finish the study. As a result, the agency has taken numerous shortcuts that have added to the questionable process and expected results.

DOT has failed to meet mandatory deadlines imposed by Congress on dozens of regulatory proceedings and other studies. Why the agency has chosen this particular study to meet its deadline requirements is questionable.

The DOT study is not considering the effects of Turnpike Doubles or Rocky Mountain Doubles on our highways. These are the most common longer combination vehicles on our highways, especially in the eastern United States. Instead, DOT is examining triple trailers which operate in a limited number of states (13) in the west under very different driving and highway conditions than in other parts of the country, especially the east coast. You can't compare driving on Interstate 95 in Virginia or the Capital Beltway where there are exits every mile and heavy congestion with a four-lane highway in Montana where traffic is lighter and exits are more spread out. Yet, the data gathered in the study may be used to potentially justify longer, heavier trucks. Another issue is that there has been no attempt to obtain input from drivers. Who better knows about the operation of these trucks than the drivers themselves?

The study is also taking a static picture of freight volume and not accounting for the enormous freight increase projected for the future. The Federal Highway Administration predicts a 48% freight tonnage increase by 2040. And the study is predicated on the false assumption that bigger, heavier trucks will mean fewer trucks on the highway. The more freight you can put on one truck, the cheaper it becomes compared to rail and other modes. More freight will be diverted to trucks, which means more, not fewer trucks on the road. Historically, that's exactly what has happened every time there has been an increase in truck size and weight.

Vehicle Stability Systems/Advanced Safety Technologies

While avoiding fatigue in drivers and preventing bigger, heavier trucks from operating on our nation's roads is important to ensuring highway safety, it is equally important that the vehicles truck drivers operate have the necessary safety equipment installed. Equipping trucks with the latest safety technologies will eventually help reduce truck crashes. Brake Stroke Monitoring Systems, Vehicle Stability Systems, Lane Departure Warning Systems and Collision Warning Systems are all devices that can help drivers avoid accidents. However, it is important to provide the proper training so that these systems are not a distraction to the driver, that the driver understands the warning signal(s), knows what evasive action to take, and the driver does not overcompensate or defeat the assistance of the device. These systems must be used for the purpose for which they are designed and not as a tool to harass the driver.

Training

MAP-21 directed FMCSA to promulgate an Entry-Level Driver Training Regulation. The FMCSA created an entry-level driver training committee that is comprised of various stakeholders to develop a proposed rule. The Teamsters Union strongly supports this process and believes that through this collaborative effort, an effective rule will ultimately be promulgated. When we consider the significant driver shortage that exists in the trucking and passenger carrier industries, combined with the aging driver workforce, there will be an influx of new drivers into the commercial driving industry. Because there is significant data suggesting that inexperienced drivers are at higher risk of experiencing a crash, training for new drivers is critical.

Expanded training for all motor carriers helps to promote safe roads and there should be money available to properly train the drivers who transport goods and people. The Administration's bill, The *Grow America Act*, establishes a grant program that provides funds for commercial motor vehicle driver training which the Teamsters wholeheartedly support as a necessary means to increase the number of safe truck drivers on the road.

Detention Time

The driver shortage may also be derived from the poor compensation and working conditions that truckers receive. The Bureau of Labor Statistics estimates that the average yearly salary for a full time truck driver is $36,970. When considering the long, stressful, and erratic work schedules these drivers have, the compensation drivers collect may not be enough to attract new drivers to the industry. Detention

times especially may cut into the pay a truck driver receives. The prospect of drivers waiting long periods to have their trailers loaded or unloaded at shipping and receiving facilities is becoming more the norm rather than the exception. For the most part, Teamster drivers are compensated for the time they are left waiting, and for that reason, detention time is not as prevalent in the union trucking sector. Unfortunately, that is not the case with owner-operators or non-union drivers. The longer they wait, the more time they lose in on-duty time, which can then effect the time they have left to drive. Drivers then feel pressured to drive beyond their Hours-of-Service limits, risking highway safety by driving fatigued. Those fatigued drivers are then sharing the road with our members. A Government Accountability Office study from 2011 indicated that about 80 percent of the drivers who are "detained" indicated that detention time impacts their capability to comply with Hours-of-Service regulations.[4]

Reasons for detention time vary, from lack of sufficient loading facilities to products not being ready for shipment. Whatever the reason, drivers suffer the consequences – reduced driving time and lost revenue for drivers and carriers.

The Teamsters Union was pleased that the Administration's bill, the *Grow America Act*, attempts to address the problem of detention by authorizing the Secretary to require property and passenger motor carriers to compensate drivers under certain circumstances for on-duty (not driving) periods at no less than the minimum wage. This may encourage shipping and receiving facilities to create better efficiencies, but it doesn't fully solve the problem. Those drivers that are independent owner operators, for example, have no employer to pay them for

[4] Government Accountability Office, *Commercial Motor Carriers: More Could Be Done to Determine Impact of Excessive Loading and Unloading Wait Times on Hours of Service Violations* (DC: Government Accountability Office, 2011), http://www.gao.gov/assets/320/315297.pdf.

detention time. These are sometimes the drivers who experience the longest delays. Especially in the ports, whether they are misclassified independent owner-operators or employees of motor carriers, drivers line up and can wait for hours to pick up a container. While we are encouraged by the Administration's proposal, the Teamsters Union would suggest that the Administration find some way to cover all drivers including independent owner-operators and that the Secretary "shall", not "may" by regulation require motor carriers to compensate drivers at not less than the minimum wage for detention time.

Hair Testing

Improving truck safety includes keeping drivers who are unfit for duty off the road which includes testing drivers for substance abuse. The method of drug and alcohol testing using hair presents some interesting challenges for the trucking industry. While not necessarily linking the use of drugs and alcohol to impairment, it does give prospective employers the opportunity to identify those prospective drivers that may show a proclivity to abuse drugs. Legislation has been introduced at the request of the trucking industry, H.R. 1467/S. 806, the *Drug Free Commercial Driver Act*, that will allow carriers to use hair for pre-employment screening of drug use in place of current urine testing. The bill would also allow hair testing for random checks. The Teamsters Union worked with Members of Congress prior to introduction to secure language that clarifies that only those drivers who are initially pre-employment screened for drug use through hair testing will be subject to hair testing for random screening. Even with this clarification, there are still problems with hair testing. There is no national standard, thresholds for positive testing are low to a point where second hand smoke and environmental conditions

could affect test results, and privacy issues need to be resolved. We will work to address these and other issues as the legislation moves forward.

Mexico Cross-Border Trucking Pilot Program

Out of concern for roadway safety in the United States, the International Brotherhood of Teamsters has consistently been opposed to broadly opening our nation's highways to Mexico domiciled trucking companies until we can be assured that Mexican trucks and drivers meet U.S. safety standards and can operate safely on our highways. The Mexican Cross-Border Trucking Pilot Program reached its three-year statutory limitation in October. The IBT is concerned about the data collected during the program's duration and the potential use of the data in justifying an opening of the border to all Mexico domiciled motor carriers. In the three years of the pilot program, the Federal Motor Carrier Safety Administration (FMCSA) has had difficulty obtaining the number of participating companies and data the agency originally indicated would be necessary for accurate results. The DOT Inspector General estimated that at least 46 carriers would be needed to obtain a target of 4,100 inspections within 3 years to provide a statistically valid analysis of program participants' safety performance. Only 13 participants ended up in the study, mostly very small carriers with one or two trucks and one or two drivers. This is not a representative sample of the Mexican trucking industry. And, while FMCSA exceeded the number of inspections needed by approximately 1300, 82 percent of the inspections came from only 2 trucking companies. Before we grant Mexican trucking companies broader operating authority, FMCSA and Congress must ensure that statistically valid data supports that action. The Teamsters Union filed a lawsuit on March 10, 2015 in the United States Court of Appeals for the Ninth Circuit. The suit is based on DOT's Final Report to

Congress where driver and vehicle out-of-service rates which the agency stated were equivalent to or better than U.S. out-of-service rates. The Teamsters Union maintains that the report was flawed since DOT used data from carriers that were not part of the pilot program and asks the court to set aside the report and find that the actions taken by DOT to grant operating authority to additional carriers are invalid.

The Teamsters Union is also very concerned about the provision in the *Grow America Act* that removes the requirement that certain safety audits and compliance investigations of Mexico-domiciled motor carriers be conducted on-site in Mexico. While we can appreciate the DOT's concern for safety of its personnel, in light of State Department travel warnings and alerts for the safety and security of Agency personnel, an on-site visit can reveal much more about the safety culture of a motor carrier than simply reviewing a stack of paperwork. Maintenance and repair facilities can be examined, for example, along with personal observations that agency personnel can make seeing drivers and their trucks first hand. The fact that the lives of agency personnel may be in danger by conducting on-site visits to Mexico-domiciled motor carriers perhaps answers another question as to why U.S. motor carriers have not taken advantage of the reciprocity of the pilot program. This suggested shortcut does nothing to enhance the safety of Mexico-domiciled carriers and drivers.

Minimum Insurance for Motor Carriers

For too long, the minimum insurance for motor carriers has remained at $750,000. Since that standard was passed 30 years ago, the minimum insurance would need to be increased to $4.4 million to keep up with the inflation of medical costs and

property damage. Accidents involving motor carriers and passenger vehicles can easily reach into the millions of dollars. The Teamsters support H.R. 983, the SAFE Haul Act to raise liability coverage to $4,532,550 and index it to inflation of medical costs to prevent any future degradation of value.

National Hiring Standard for Motor Carriers

The Teamsters Union has serious concerns about legislation that has been introduced in the House of Representatives, H.R. 1120, to create a National Hiring Standard for Motor Carriers. While we appreciate the concern and frustration that shippers and brokers experience in different states in determining what constitutes a safe motor carrier, the legislation is overly broad in that it imposes no liability at all for negligent selection of a motor carrier or "a claim or cause of action *related to* negligent selection under state or federal law, which seems to broaden the potential scope of the exemption from liability. We are not aware of any situation in which Congress has simply banned states from imposing liability where there is no corresponding federal remedy for the potential injury. While there are insurance coverage mandates in most states, there can be and are circumstances in which coverage either doesn't exist or is inadequate. We fail to see how this legislation would contribute to any increase in motor carrier or highway safety. Merely relying on the Department of Transportation's (DOT) safety rating system in hiring a motor carrier should not necessarily excuse anyone from liability in the event of an accident. DOT has many other databases that provide information concerning the safety record of motor carriers that can be utilized. One of these databases is the Federal Motor Carrier Safety Administration's Compliance Safety and Accountability (CSA) program. The IBT supports the CSA program and we believe that it is a major improvement over the SafeStat Program. The CSA

program provides the FMCSA with additional enforcement tools that assist the agency in its efforts to efficiently and effectively target enforcement activities. Our driver members report that as a result of the CSA program, they are able to perform more comprehensive pre-trip and post-trip inspections because carriers are more sensitive to how issues concerning vehicle maintenance, for example, affect the carrier's CSA score. They also reported that they are more aware of the need to ensure that their credentials are current, as they too affect the carrier's CSA score.

Safety Standards for Commercial Motor Vehicle Drivers

The primary mission of the FMCSA is to prevent Commercial Motor Vehicle (CMV)-related fatalities and injuries. There should be a reasonable expectation that the regulations, especially regulations designed to improve the safety and health of workers/drivers and the public not have an adverse effect on drivers. While there are many provisions of the Administration's *Grow America Act* that we support, the Teamsters Union disagrees with the Administration's proposal to change the minimum safety standards regarding the physical condition of motor carrier operators. The Administration claims that "virtually all occupations have some deleterious effect on the physical condition of those employed and the effects of the job are often difficult to separate from the effects of personal behavior, aging or even genetic disposition," are at odds with the position of most competent health and safety experts. Most experts agree that virtually all occupations have work-related hazards that have the potential to cause work-related illnesses or injuries, if such hazards are not eliminated or controlled. Any rulemaking to control such hazards must consider factors such as age, genetic disposition, etc., to ensure that the rule is protective for most exposed workers. The change to the CMV safety

standard language requiring that the work not have a "significantly adverse effect on the physical condition of the operators" does very little to eliminate the debate on the issue. How is "Significantly adverse effect" defined? This is a solution in search of a problem. And this proposed change will cause many to think that the standard is significantly less stringent.

Financial Reporting

The IBT also disagrees with the Administration's repeal of financial reporting in the motor carrier title of the *Grow America Act*. One section of the financial reporting form includes maintenance and vehicle parts costs. The expenditures that carriers make on maintaining their fleet may be indicative of their attention to vehicle safety.

It is unreasonable to claim that reporting is overly burdensome and insufficiently useful. The reporting requirements were just revised to eliminate quarterly reporting so the carriers already received significant relief. Also, we and others use the annual reports to assess the state of the industry over time. It's the only valid, continuous data source that tracks carrier performance available to the public since deregulation. The reports can be manually completed online in a matter of minutes and are not arduous due to technological improvements. All Class I motor carriers capture these data at least annually as part of routine data collection and much, such as miles driven info, is often legally required by other reporting systems anyway (vehicle use tax, etc.). The problem is the data is not available online to the public as it should be –it's an access issue if it is not being used. The data is valuable to a whole range of users, from academics to insurance companies, and does not expose any trade secrets as it currently stands – it has undergone

numerous revisions over time to eliminate that possibility. Furthermore, motor carriers can request confidentiality (competitive harm) if necessary and there are several exemptions that have already been thoroughly vetted by FMCSA and rulemaking. We believe that FMCSA should beef up enforcement and make the data more useful to the public.

Motor Carrier Safety Advisory Committee

The Teamsters Union supports the provision in the *Grow America Act* that codifies the obligation of the DOT Secretary to maintain the Motor Carrier Safety Advisory Committee (MCSAC). This committee, established by provisions in SAFTEA-LU, has allowed stakeholders to provide significant expertise to the DOT on a variety of issues. The current makeup of the committee is balanced, and this provision identifying specific stakeholders to be represented on the panel will ensure that all sectors of the industry have a voice in advising the Department on vital motor carrier safety issues.

Conclusion

Our members, through collective bargaining, receive better, extended training, more favorable duty periods, and the ability to refuse to operate a vehicle that is not in a safe operating condition which ultimately reduces risks and increases safety. In fact, a 2012 study entitled Safety Performance Differences between Unionized and Non-union Motor Carriers concluded that Union Membership has a positive impact on safety and results in fewer crashes compared to non-union carriers. Clearly, the IBT is committed to keeping our drivers and all others with whom they share the road safe. This Committee can help lead the way as you

develop transportation policy that recognizes and addresses the challenges ahead. The Teamsters Union looks forward to working with you to help grow a transportation network that meets the future needs of this country, moves freight efficiently and reduces the risks of accidents and improves the safety of our nation's highways.

Hearing on "The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation"
Subcommittee on Highways and Transit
Wednesday, April 29, 2015, 2:00 p.m.
2167 Rayburn House Office Building
Washington, D.C.

Questions for the Record (QFR)

Submitted on behalf of Ranking Member Eleanor Holmes Norton:

(1) Mr. Byrd, I understand you are on the negotiated rulemaking Committee convened by FMCSA to address entry-level commercial driver training. Can you comment on how the process is going, and whether you believe the Committee will be able to achieve an agreed upon rule in a timely manner?

As a member of the Entry-Level Driver Training Advisory Committee (ELDTAC), I've had the opportunity to work closely with a very diverse group of stakeholders that included representatives from labor, industry, training providers, public safety advocates, law enforcement, and state government. The meetings are open to the public and both members of the committee and the public have the opportunity to actively participate in the discussion. The mediator (Richard Parker) and the FMCSA representatives (Larry Minor and Shannon Watson) actively sought input and guidance from all attendees. The process was very transparent and consequently, a great deal of progress was accomplished in a very abbreviated time period. The committee meetings commenced in late February and concluded on May 31, 2015. The committee successfully developed an excellent draft document that the stakeholders voted on and were able to reach consensus (as defined collectively by the committee at the beginning of the process). FMCSA will use the document to develop a Notice of Proposed Rulemaking (NPRM) for entry-level drivers and those drivers who previously possessed the Commercial Driver's License, but allowed the license to expire.

In conclusion, the ELDTAC was able to accomplish its objectives and goals and a proposed rule will be forthcoming.

(2) Mr. Byrd, the House Appropriations Committee draft FY 2016 Transportation, Housing, and Urban Development bill contains language

which, by my read, aims to permanently roll back the hours-of-service restart rule. According to your testimony, this change will increase the number of hours a driver can work to over 80 hours a week. Many people may be surprised to learn that hours of service are the basic wage and hour laws governing truck and bus drivers, since these workers are exempt from the overtime provisions of the Fair Labor Standards Act. These workers do not get overtime pay for work in excess of 40 hours. And yet here we are arguing about whether they should be limited to 70 or 80 hours a week.

• Can you comment on how eliminating the limitation on the restart provision and removing the requirement for nighttime rest will impact safety?

• Do you believe that driver pay is a factor in hours of service compliance? If so, should Congress consider compensation structure as part of any action on hours of service?

Eliminating the limitation on the 34-hour restart provision and removing the requirement for nighttime rest – the mandatory consecutive 1a.m. to 5a.m. rest periods – will have a significant impact on safety. While not all employers will push their drivers to the limit, there are some that do and that can result in drivers working for up to 82 hours in a week. On top of that, eliminating the two consecutive 1a.m. to 5a.m. rest periods puts an additional strain on drivers to get rest during periods of time that provide the most recuperative sleep. Numerous scientific studies have shown that rest during the regular circadian rhythm provides the best opportunity for drivers to combat fatigue. Contrary to arguments from the trucking industry, drivers who work on the back side of the clock still need rest and get the most recuperative sleep when their body knows that it is time to rest. Without the limitation on the restart and without the rest periods, more fatigued drivers will be on the road.

The implementation of the Hours-of-Service rule with the mandatory rest periods did not cause more trucks to be on the road during daylight hours, contrary to what the trucking industry has stated. As stated above, those rest periods are designed to give truckers better recuperative sleep than they would otherwise receive in working on the back of the clock and resting during daylight hours.

Driver pay can be a factor in hours-of-service compliance especially when drivers are subjected to long waiting periods while their truck is loaded or unloaded. This time lost, commonly called detention time, counts against a driver's on-duty time and can ultimately affect the time a driver can operate behind the wheel. Drivers in

the non-union sector are not ordinarily paid for the waiting time, and so there is pressure exerted on them to make up that time by extending their driving time beyond the allotted hours-of-service regulations and/or exceeding speed limits to arrive at a destination more quickly. There has been much discussion to revamp the compensation structure for truck drivers from payment per mile or by trip, to an hourly rate, which could include overtime, with the theory being that if drivers are paid for their time behind the wheel on an hourly basis, that employers are less likely to take advantage of them and perhaps hire more drivers rather than pay overtime rates. In theory, this may help, but what it ultimately comes down to is enforcement. Restructuring driver pay may provide some relief, and slightly higher pay rates for some drivers, but unless there is oversight and enforcement against violations, truck drivers and some unscrupulous employers that want to break the law and ignore regulations will find a way to do it and in the end jeopardize safety for all of those that share the road with them.

(3) Mr. Byrd, in the Consolidated and Further Continuing Appropriations Act of 2015 three states - Wisconsin, Mississippi, and Kentucky - were granted exemptions from Federal weight limits for certain roads that were soon to receive Interstate designation. During his questioning, Congressman Ribble noted the opposition of the Teamsters Union to these exemptions, and noted that this position was potentially contradictory to the goal of keeping heavier trucks off of local roads.

• Can you comment on this, and provide an explanation for your position?

The response to Mr. Ribble's comment is really a simple one. The Teamsters are committed to keeping our drivers and those they share the roads with safe. We believe that the interstate is a safer place to operate tractor trailers than local roads but we also believe that federal weight limits must be enforced on the interstates in order to prevent safety from being compromised. The exemptions for Wisconsin, Mississippi, and Kentucky would allow heavier trucks to operate on stretches of interstate highway than is permissible by federal law. As truck weights increase, stopping distances increase, maneuverability decreases and the wear and tear on roadways becomes more problematic. In many cases where states have higher weight limits on local roads, accident rates increase because these roads aren't designed for bigger heavier trucks. Instead of grandfathering higher weight limits for Wisconsin, Kentucky and Mississippi, those states should have brought their maximum weight limits for those stretches of highways into compliance with federal maximums.

CAPITOL OFFICE
1610 LONGWORTH BUILDING
WASHINGTON, DC 20515
(202) 225-5256
FAX (202) 225-0327

DISTRICT OFFICE
4401 SANTA ANITA AVE, #201
EL MONTE, CA 91731
(626) 350-0150
FAX: (626) 350-0450

www.napolitano.house.gov

TRANSPORTATION AND INFRASTRUCTURE
Water Resources and Environment—Ranking Member
Highways and Transit
Railroads, Pipelines, and Hazardous Materials

NATURAL RESOURCES
Water and Power

CONGRESSIONAL YOUTH CHALLENGE CAUCUS
Co-Chair

CONGRESSIONAL HISPANIC CAUCUS

Grace F. Napolitano
Congress of the United States
House of Representatives
32nd District of California

Statement for the Record by Rep. Grace F. Napolitano
Highways and Transit Subcommittee Hearing
April 29, 2015
And Statements she would like to submit for the record

Mr. Chairman,

I would like to submit the attached statements for the record for the April 29th Highway and Transit Subcommittee hearing titled, "The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation". These statements are from:

Lawrence Liberatore, Father of Nick Liberatore
Killed in a Crash Involving a Tired Trucker
Board Member, Parents Against Tired Truckers (P.A.T.T.)

Ron Wood
Son of Betsy Wood, Brother of Lisa Wood Martin,
Uncle of Chance, Brock, and Reid Martin
Killed in a Crash Involving a Tired Trucker
Volunteer, Truck Safety Coalition
Member, Federal Motor Carrier Safety Administration's, Entry-Level Driver Training Advisory Committee

Frank Wood, Father of Dana Wood
Killed in a Crash Involving a Tired Trucker
Volunteer, Truck Safety Coalition

JOAN CLAYBROOK
CO-CHAIR OF
ADVOCATES FOR HIGHWAY AND AUTO SAFETY

Idaho Groups Oppose Special Interest Truck Safety Exemptions in

Truck Safety Coalition Parents Against Tired Truckers and Citizens for Reliable and Safe Highways

Thank you,

Grace F. Napolitano
Member of Congress

TRUCK SAFETY
COALITION

Statement of
Lawrence Liberatore, Father of Nick Liberatore
Killed in a Crash Involving a Tired Trucker
Board Member, Parents Against Tired Truckers (P.A.T.T.)

Submitted for the Record
Hearing on
The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation

Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
United States House of Representatives

May 11, 2015

My name is Larry Liberatore and I am a board member of Parents Against Tired Truckers (PATT). PATT and Citizens for Reliable and Safe Highways (CRASH) make up the Truck Safety Coalition (TSC) and we are deeply concerned about the preventable deaths and injuries occurring every day on our roadways, especially because of the serious industry-wide problem of overly fatigued commercial motor vehicle drivers. I respectfully ask that my statement be submitted for the record.

On June 9, 1997, my son Nick was killed just south of the Delaware/Maryland state line, by a fatigued truck driver. Nick was traveling with friends in several cars to Six Flags Great Adventure in New Jersey. When the cars were separated from their caravan while traveling north on Interstate 95, a few of them pulled over on the shoulder of the highway to wait for the others to catch up. Nick was sitting in the back seat of a car on the shoulder of the highway when a tired trucker carrying a load of steel veered across three lanes, and ran over the car. The truck driver had not slowed as he approached the toll booth which was about 1,000 feet past the crash site.

Every year on average 4,000 people are killed in truck crashes in the U.S. and another 100,000 are injured. Truck driver fatigue has been recognized as a major safety concern and a contributing factor to fatal truck crashes for over 70 years. In fact, studies sponsored by the Federal Motor Carrier Safety Administration (FMCSA) reveal that 65 percent of truck drivers

report that they often or sometimes feel drowsy while driving and nearly half of truck drivers admit that they had actually fallen asleep while driving in the previous year.

This is why I am vehemently against the extension and expansion of the Collins Amendment, which was tucked into the 2015 overall spending bill last December. The rider suspended the 2013 34-hour restart provisions, which required that the restart period contain two periods between 1 a.m. and 5 a.m. and allowed one restart every 168 hours. Extending the hours allowed in a work week again through another Appropriations bill endangers the public, and is being done without any review, hearing, or an independent study to support it.

These safety reforms were based on extensive scientific research and still allow truck drivers to work for 11 consecutive hours each shift and average 70 hours of driving and work each week. These safety reforms ensure that drivers who use up their driving hours quickly by taking the short 34-hour "restart" (not even a day and a half) will get the additional rest they need the following week. After a strenuous 70 hour (or longer) work week in one of the most dangerous professions in our country, it is not unreasonable, and it is certainly safer to give a truck driver a weekend off for rest and recovery.

The Committee on Transportation and Infrastructure has jurisdiction over this important issue and that is where it should be debated and reviewed, not under the Appropriations process. The House Committee on Appropriations is considering a bill that would effectively kill the Hours of Service rule. Putting the lives of the American public on the line so some trucking companies can run their drivers to unsafe limits is unacceptable. I respectfully request of the Committee on Transportation and Infrastructure that instead of allowing the Appropriations Committee to overstep their reach and eliminate these important provisions, keep them, and ensure that drivers operate with a reasonable amount of rest and keep the American public safe.

During the hearing, concerns were also expressed over the scores used to compile ratings in FMCSA's Compliance, Safety, Accountability (CSA) program. These scores, and all data that goes into them, must remain open and readily accessible to the public to promote accountability and a strong commitment to safety.

Eliminating the safety scores or hiding them from the public will allow companies to operate without anyone knowing if they are safe or not. If these scores are accurate and effective enough for law enforcement, the Department of Defense, and the Department of Energy to use, then certainly they should be made available to shippers, brokers, and the general public.

I would like to thank Representative Grace Napolitano for the opportunity to submit these comments and I urge the Committee to consider families like my own when they make these important changes.

Thank you.

TRUCK SAFETY
COALITION

Statement of
Ron Wood
Son of Betsy Wood, Brother of Lisa Wood Martin,
Uncle of Chance, Brock, and Reid Martin
Killed in a Crash Involving a Tired Trucker
Volunteer, Truck Safety Coalition
Member, Federal Motor Carrier Safety Administration's, Entry-Level Driver Training Advisory Committee

Submitted for the Record
Hearing on
The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation

Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
United States House of Representatives

April 29, 2015

My name is Ron Wood and I am a Naval Academy graduate, a former Navy nuclear submarine lieutenant and I am presently an award winning playwright. I never expected to be working on truck safety issues, but life intervened suddenly 11 years ago, and compelled me to take on this effort.

On September 20, 2004, my mom Betsy, sister Lisa and my three nephews, Chance (age 4), Brock (age 2) and Reid (6 weeks old), were killed near Sherman, Texas, when a tractor trailer driver fell asleep behind the wheel and crossed a median into oncoming traffic. The driver collided with two vehicles, killing a total of 10 people and injuring two more.

The devastating loss of my family was my introduction to truck safety and the dangers of these massive trucks. I shudder to think how unsafe our roads will be if trucks get even longer. That is why I ask that as the Committee moves toward a highway authorization bill, to not allow provisions permitting "double 33".

Proposals to allow 33-foot double-trailer trucks would make these trucks10 feet longer than the trailers they would replace and are 17 feet longer than the 53-foot single-trailer trucks on the road today. If passed, the legislation allowing these trucks would override the laws of 39 states and Washington, D.C. which currently prohibit longer trailers will be overturned.

States where double 33s are prohibited, and states where they are not running, will be pressured to allow these longer trucks on their roads which are not equipped to accommodate them. The states have very clearly and deliberately shown they do not longer trucks on their roads. The federal government should not force this upon them.

Increasing 28-foot double-trailer trucks to 33-foot double-trailer trucks results in a six-foot wider turning radius. There would also be a larger blind spot, which means a greater hazard to pedestrians, bicyclists and motorists in their path. A larger footprint also means greater chances for side underride crashes, already a significant problem. With 4,000 people killed and 100,000 injured every year from truck crashes, we should be looking at ways to improve truck safety, not endangering more people with longer trucks.

Additionally, double 33s will cause more damage to infrastructure. The Federal Highway Administration estimates that $146 billion in capital investment would be needed on an annual basis over the next 20 years to significantly improve conditions and performance. The American Society of Civil Engineers gave our nation a grade of D+ on our infrastructure. Our roads were graded D and bridges a C+.

I appreciate Congresswoman Grace Napolitano providing me with the opportunity to submit these comments into the record. I urge the Committee to make informed, research-based decisions, especially when considering long-lasting policy changes that affect the lives of all motorists and truck drivers.

A truck crash happens in a second. Grief and loss last a lifetime.

Thank you.

Statement of
Frank Wood, Father of Dana Wood
Killed in a Crash Involving a Tired Trucker
Volunteer, Truck Safety Coalition

Submitted for the Record

Hearing on
The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation

Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
United States House of Representatives

April 29, 2015

My name is Frank Wood. I would like to thank Congresswoman Grace Napolitano for submitting this statement on my behalf.

The Committee on Transportation and Infrastructure should be appalled by the House Committee on Appropriations highjacking of issues under their jurisdiction. The FY2016 Transportation, Housing and Urban Development (THUD) bill is riddled with numerous anti-safety policy riders. The use of the appropriations process to assault and defund truck safety measures, like limits on truck size, the Hours of Service (HOS) rule, and minimum insurance levels for motor carriers, is inexcusable. While these changes will bring profits to the industry, they will also endanger our loved ones unnecessarily. However, at the Subcommittee on Highways and Transit April 29th hearing on, "The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation," there was little to no discussion of many of these issues.

Unfortunately, I know firsthand the destruction that results from placing the bottom line of business above the safety and welfare of people. On October 15, 2002, my daughter Dana and a

friend were returning to East Carolina University after spending the fall break of their freshman year with us at home in Falls Church, Virginia. As they were driving on I-95 in Virginia, a truck slammed into their car, pushing it 1,500 feet down the highway – the length of more than 4 football fields – or, over a quarter of a mile, before coming to a complete stop. Dana and her friend were both killed.

The truck driver could have either stopped or changed lanes, but he didn't even slow down before he smashed into Dana's car. During the investigation of this crash, numerous violations came to light from the truck driver and the trucking company. The truck driver produced two sets of log books, or "comic books" as they are commonly known, and they were both inaccurate. He was on his normal route from North Carolina to Baltimore, Maryland, and back, a trip that takes about 12 hours, not counting any traffic in the congested cities along the way.

According to two experts in crash reconstruction, this crash could have been avoided and it was likely due to fatigue. Like many crashes, we will never know the truth because the driver, who has an economic interest to preserve his livelihood, is the only survivor. Despite crashes like the one that took Dana away from us, there are Members of Congress that want to make it easier for truck drivers to drive even more hours. Proposals to essentially kill the 34-hour restart "weekend off" for truck drivers would force drivers to drive and work up to 82 hours per week.

Since 1980, there has not been one increase in minimum insurance requirements for motor carriers, not even to account for inflation. This fact becomes even more frightening when considering the increase in medical care costs far exceed inflation. There is no reason that a family should have to suffer twofold for a truck crash. The emotional cost of losing someone in a fatal truck crash is already so high, there is no reason grieving families should also have to deplete their personal resources when dealing with the astronomically high financial costs relating to a crash involving a large truck.

Finally, there is a push in Congress to hide or eliminate portions of the Federal Motor Carrier Safety Administrations Compliance, Safety, Accountability (CSA) Program. The issue was discussed briefly during the hearing and I am appalled to see the support for hiding crash and violation related data. Any attempts to weaken, hide, or eliminate any portion of CSA would only jeopardize the safety of the American public.

Until we address the fundamental issues that are driving increases in deaths and injuries when a large truck is involved, our families will not be safe on our roads and people will continue to pay with their lives.

Thank you.

STATEMENT

OF JOAN CLAYBROOK

CO-CHAIR OF

ADVOCATES FOR HIGHWAY AND AUTO SAFETY

ON

"THE FUTURE OF COMMERCIAL MOTOR VEHICLE SAFETY: TECHNOLOGY, SAFETY INITATIVES, AND THE ROLE OF FEDERAL REGULATION"

BEFORE THE

HOUSE TRANSPORTATION and INFRASTRUCTURE COMMITTEE

SUBCOMMITTEE on HIGHWAYS and TRANSIT

APRIL 29, 2015

Introduction

Founded in 1989, Advocates is a coalition of consumer, health and safety groups and major insurance companies working together to promote safety on our roads and highways by advocating for laws and regulations that prevent crashes, save lives and reduce injuries. Advocates is a unique coalition dedicated to improving traffic safety by addressing motor vehicle crashes as a public health issue. One of our major safety priorities is the unnecessary and unacceptable death and injury toll caused by truck crashes.

Advocates has been involved in the issue of motor carrier safety and truck driver hours of service regulations for 26 years, and with good reason. Truck crashes are a serious, deadly and costly problem to families, our health care system, and to the economy. Government data and statistics illustrate the emotional and economic toll of large truck crashes on the public. Large truck crashes killed 3,964 people and injured another 95,000 in 2013.[1] Over the past decade (based on the most recent available data from 2004 through 2013), large truck crashes have claimed, on average, the lives of over 4,000 people and injured nearly 100,000 each year.[2] This is equivalent to a major airplane crash every other week all year long. In the past ten years a total of 43,324 people have been killed and nearly one million people have been injured in crashes involving large trucks.[3] Despite declines in the overall fatality and injury statistics during the 2008-2009 recession, fatalities and injuries in large truck crashes have experienced increases every year since 2009. The fatality total has increased by 17 percent and the number of people injured has increased by 28 percent since the low point in 2009.[4] Of the people killed in crashes involving large trucks in 2013, 71 percent were occupants of other vehicles, 17 percent were occupants of large trucks, and 11 percent were non-occupants (pedestrians, pedal cyclists, etc.).[5] The annual cost to society from crashes involving commercial motor vehicles is estimated to be over $99 billion.[6]

Advocates is gravely concerned with the recent increases in truck crash deaths and injuries as these numbers continue their march toward a return to pre-recession levels. Claims that the trucking industry has made great strides in safety by comparing data from a decade ago with recent data are highly misleading and ignore dangerous trends over the past few years. In fact, fatalities, injuries and fatal and injury crashes involving large trucks and buses has increased every year since 2009.[7] For example, the total number of fatalities in crashes involving large truck and buses has increased each and every year since 2009, increasing from 3,619 to 4,251 deaths in 2013, for a combined increase of 17 percent.[8] By comparison, over that same time period, the total number of fatalities in passenger vehicle crashes has fallen by 5 percent.[9] In addition, the total number of fatalities in crashes involving large trucks and buses as a proportion of the total number of traffic deaths has been steadily increasing from 11 percent in 2009 to 13 percent in 2013.[10] Congress should not rely on misleading data that is over ten years old to laud an industry that is responsible for far too many deaths on America's roads, especially when the most recent statistics demonstrate that truck crashes and the fatalities and injuries resulting from these tragedies continue to rise.

Unfortunately, several deeply flawed U.S. Department of Transportation (DOT) initiatives as well as adoption of special interest rollbacks in safety regulations will only contribute to the mounting death and injury toll unless changes and course corrections are implemented. My statement addresses several of these major issues related to commercial motor carrier

regulation and truck safety policy, including the rollback of the safety reforms incorporated in the 2011 hours of service rule, the on-going problems with the credibility and reliability of the DOT Comprehensive Truck Size and Weight Limits Study and the weakening of important motor carrier and truck provisions in the Transportation, Housing and Urban Development (THUD) appropriations bill for fiscal year 2016.

The current draft of the THUD funding bill contains several assaults on truck safety including provisions that will allow longer and heavier trucks on many of our nation's roads. Section 125 of the bill will preempt state law by requiring states to accept double 33 feet tractor trailers that are at least 84 feet long on federal, state and local roads.[11] Longer trucks are inherently more dangerous to passenger cars. The sheer size of these longer trailers – which adds at least 10 feet to the length of current double or tandem rigs – has far reaching and significant implications for the safe use of highways, bridges and ramps. These excessively long double trailers threaten motorists sharing the road with trucks due to the "crack the whip" effect, in which small changes in steering by the tractor are amplified and cause large swaying effects (side-to-side motion) in the last trailer behind the truck cab. Longer trailers will result in more off-tracking, in which the rear trailers cross into adjacent lanes and interfere with oncoming traffic as well as traffic headed in the same direction of travel. They can also swing into opposing lanes on curves and when making right-angle turns. Moreover, bigger trucks never result in fewer trucks despite industry's claims. Over three decades of research and real world experience show that allowing bigger, heavier trucks always results in more trucks on the road. Currently 39 states (AL, AK, AR, CA, CO, CT, DE, GA, HI, IL, KS, KY, LA, ME, MD, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI) may not allow these longer trailers. Furthermore, industry-funded research which is being used to support increasing the size of trailers is neither objective nor unbiased. There have been no independent, peer-reviewed research and studies conducted on the operational and safety issues associated with the use of 33 foot trailers. Congress would never consider allowing a new drug on the market for public use solely based on one industry-sponsored study. Neither should the motoring public be used as human test subjects to conduct this research on longer trucks. We need look no further to see the destruction that can result in crashes involving current double-trailer trucks than the April 11, 2014, crash in Orland, California, when a Federal Express double-trailer combination truck crashed into a motorcoach carrying 48 passengers, mostly high school students traveling to visit a college; the crash injured dozens and killed ten people including five teenagers.[12] We strongly urge you to oppose any increases to federal truck length policy. It is unsafe, not supported by data and unacceptable to the public.

Moreover, the THUD bill, as currently written will further erode the federal 80,000 lbs. weight limit for trucks by allowing trucks that weigh up to 129,000 pounds to operate on roads in Idaho and tractor trailers running in Kansas could be potentially100 feet or more in length .[13] Overweight trucks disproportionately damage our badly deteriorated roads and bridges and unfairly burden American taxpayers. An 18,000 pound truck axle does over 3,000 times more damage to pavement than a typical passenger vehicle axle exasperating our nation's already crumbling infrastructure.[14] In fact, thirty-two percent of America's major roads are in poor or mediocre condition and 25 percent of our bridges are structurally deficient or functionally obsolete.[15] The Federal Highway Administration (FHWA)

estimates that $146 billion in capital investment would be needed on an annual basis over the next 20 years to significantly improve conditions and performance.[16] Yet, increasing the weight of a heavy truck by only 10 percent increases bridge damage by 33 percent at a time when many of these structures are badly in need of an upgrade.[17] The FHWA estimates that the investment backlog for bridges, to address all cost-beneficial bridge needs, is $106.4 billion. The U.S. would need to increase annual funding for bridges by 18 percent over current spending levels to eliminate the bridge backlog by 2030.[18]

The U.S. taxpayer also unfairly subsidizes bigger, heavier trucks. According to the FHWA, a truck weighing over 80,000 pounds only pays between 40 and 50 percent of its cost responsibility.[19] The 2007 Transportation for Tomorrow report, mandated by Congress, confirmed that heavy trucks were underpaying their fair share for highway use, that user fee fairness could be achieved through weight-distance taxes, that heavy trucks should pay an infrastructure damage fee, and that the Heavy Vehicle Use Tax—which only contributes $1 billion annually to the Highway Trust Fund—had not been changed since the early 1980s.[20]

The nation's deteriorating surface transportation infrastructure has severe effects on America's economy. The American Society of Civil Engineers found the cost to the economy from the state of the surface transportation infrastructure will be approximately 877,000 jobs lost and suppressed GDP growth of $897 billion by the year 2020. Further, the impact on each American family's budget would be $3,100 per year, based on lower earnings and higher spending.[21]

Research and experience also show that allowing bigger, heavier trucks will not result in fewer trucks. Since 1982, when Congress last increased the gross vehicle weight limit, truck registrations have increased 91 percent.[22] In addition, increases in truck size and weights over more than 35 years have never resulted in fewer heavier trucks on the roads.[23]

Safety Reform of the 34-Hour Restart Rule Eviscerated by Special Trucking Interests

Driving a commercial motor vehicle (CMV) is a challenging, exhausting and dangerous occupation; extremely long work weeks are just one of many factors contributing to this reality. Truck driving continues to be identified as one of the most dangerous occupations in the United States.[24] 600 drivers of large trucks were killed in 2013 and another 18,000 were injured in truck crashes.[25] More fatal work injuries resulted from transportation incidents than from any other event in 2013.[26] Roadway incidents alone accounted for nearly one out of every four fatal work injuries.[27] Despite these facts, CMV drivers are exempt from the maximum hours and overtime requirements of the Fair Labor Standards Act[28] which govern compensation for employees working more than 40 hours a week. Since 1938, CMV drivers have been limited to driving within the first 60 or 70 hours of their work week (depending on their schedule). Prior to the 2003 final rule, a truck driver who used all 60 or 70 driving hours was not allowed to drive again until their 7 or 8 day work week was over and a new work week began. This ensured that drivers were provided a full weekend off-duty to rest and recover from the arduous driving schedule.

The 2003 Hours of Service (HOS) final rule, however, instituted the 34-hour restart which allows drivers to restart their 60 or 70 hour driving limit at any point during the work week

by taking just 34 hours off duty; this is in comparison with the normal weekend of about 60 hours off for people working a 9-to-5 job. The trucking industry embraced this change because it increases the average maximum work week to 82 hours; more than double the time the average American works. This increase in driving and work hours enabled the industry to realize a huge cost savings by using fewer drivers to move the same amount of freight and eliminating 48,000 trucking jobs.[29] Many drivers are paid by the mile, meaning that if the truck isn't moving, the driver isn't earning. Aside from encouraging truck drivers to drive as long and as fast as possible, the complete opposite motivation from what is needed from a safety viewpoint, this also means that drivers viewed the restart as a way to increase their paychecks. In short, the unrestricted 34-hour restart, as implemented in the 2003 final rule, was a giveaway to the industry that allows motor carriers to cut their bottom line, overwork drivers even more, and in the process convince drivers that it was all for their benefit.

Advocates opposed the unfettered use of the 34-hour restart since it was first adopted in the 2003 HOS final rule.[30] The reason is that the restart provision allows long-haul truck drivers to drive and work more hours, and therefore get less off-duty rest, each week than was permitted before the 2003 HOS rule was adopted. The startling decline in driver sleep and increase in driver fatigue was documented in the results of an anonymous 2006 survey of truck drivers sponsored by the Federal Motor Carrier Safety Administration (FMCSA) which reported:

> About 38 percent of the drivers said they sometimes and 6.7 percent said they often had trouble staying awake while driving. About 13 percent reported that they often or sometimes fall asleep while driving; 47.6 percent said they had fallen asleep while driving in the previous year. Although only 23.4 percent said they often or sometimes felt fatigued while driving, 65 percent reported that they often or sometimes felt drowsy while driving. A third of the drivers reported that they became fatigued on a half or more of their trips.[31]

The survey was conducted after the 2003 HOS final rule was implemented and the unrestricted 34-hour restart provision went into effect. The survey showed that nearly two-thirds of truck drivers surveyed (65 percent) admitted to driving while tired and nearly half (48 percent) reported that they actually fell asleep behind the wheel while driving in the previous year.[32] These self-reports, which most likely underestimate the true extent of the fatigue problem, indicate that many truck drivers were operating vehicles while tired or fatigued under those HOS rules.

Equally troubling is the fact that truck drivers reportedly obtained far less than 7 hours of sleep each night, well below the 7 to 8 hours of sleep the agency had found drivers needed to be alert and to perform the driving task safely. According to the FMCSA:

> The studies of restricted sleep show that over days of mild, moderate, or severe sleep restriction (1) alertness and performance degrade as cumulative sleep debt rises; (2) even mild sleep restriction (loss of less than 1 hour of sleep a day) degrades performance over days. Seven to 8

> hours of consolidated night-time sleep in each 24 hours appear to sustain performance over multiple days, if not longer, for most people.[33]

This scientific finding about the dangers of restricted sleep is troubling because truck drivers were found to get less than 7 hours of sleep each day.[34] This fact is supported by other research that has shown that adults in the general population who reported getting an average of less than 7 hours of sleep a day were more than twice as likely to report nodding off or falling asleep while driving in the previous 30 days compared to adults who received more than 7 hours of sleep.[35] Lack of sleep among truck drivers explains the high levels of driver fatigue and fatigue-related crashes that occur. Advocates has opposed allowing the unrestricted use of a 34-hour restart because the unrestricted 34-hour restart permits drivers to maximize their work hours, up to 82 hours of work and driving on average each week, and contributing to driver fatigue.

Advocates favored rescinding unfettered use of the 34 hour restart because rather than provide workers with needed rest, it in fact increases the hours they can drive and work from 70 to 82 hours a week. However, since the 34-hour restart has not been rescinded, Advocates supports the safety reforms adopted by the FMCSA in the 2011 HOS final rule which were implemented in 2013. The reforms included three adjustments to the 2003 HOS rules: the implementation of a half hour rest break within 8 hours of reporting for duty, and two limitations on the use of the 34-hour restart. Prior to the 2011 final rule, drivers were able to restart their weekly driving hour limits by taking an abbreviated 34-hour off-duty period at any point in their schedule. The unfettered use of the restart enabled drivers to work and drive an average maximum work week of 82 hours. The 2011 final rule modified the 2003 HOS rule by requiring that at least 168 hours (7 days) elapse from the start of one 34-hour restart before the next restart can be taken. The other safety reform requires that each 34-hour restart include two time periods between 1 a.m. and 5 a.m. Both of these reforms to the restart option ensure that long-haul truck drivers have additional opportunities to rest and recover from their prior work week of 60 or 70 hours of driving, and additional hours of other work, before getting behind the wheel for the start of their next long work week.

The FMCSA included an explanation of the necessity and benefits of these changes in the 2011 final rule:

> Because research has shown that long weekly work hours are associated with a higher risk of crashes, sleep loss, and negative health effects, the rule also limits the use of the restart to once a week, which, on average, will cut the maximum work week from 82 to 70 hours. The provision allows drivers to work intensely for one week, but will require them to compensate by taking more time off in the following week. Research has long demonstrated that daytime sleep is shorter in duration and lower in quality than nighttime sleep. The rule requires any driver working long enough to need a restart to take off at least 34 consecutive hours that include 2 periods between 1 a.m. and 5 a.m., the window of circadian low. This provision will give those drivers who both routinely work at night and put in very long work weeks an

opportunity to overcome the chronic fatigue that can build up when working nights.[36]

Driver fatigue plays a significant role in a substantial number of truck crashes. In the 2011 HOS final rule, the FMCSA relied on the estimate that 13 percent of large truck crashes were due to fatigue. The Agency supported this estimate in its response to comments during the regulatory process when it identified that the Regulatory Impact Analysis (RIA) for the 2000 Notice of Proposed Rulemaking (NPRM) used a 15 percent estimate. The RIAs for the 2003 and 2007 rules also used a 15 percent estimate in the sensitivity analyses. Furthermore, the National Transportation Safety Board (NTSB) observed that "truck driver fatigue may be a contributing factor in as many as 30 to 40 percent of all heavy truck accidents."[37]

The FMCSA's estimate is based on an analysis of the Large Truck Crash Causation Study (LTCCS) in which it found that truck driver fatigue was coded as a factor in 13 percent of all crashes.[38] In 2013, there were 326,000 police reported motor vehicle crashes involving large trucks, including 3,541 fatal crashes, 69,000 injury crashes, and 254,000 property damage only crashes.[39] At a 13 percent involvement rate (one in eight crashes), fatigue was likely a factor in as many as 42,000 crashes. This is likely a conservative estimate considering that fatigue is notoriously hard to identify short of a confession or direct observation of a sleeping driver, something the agency acknowledged in the final rule when it noted that "fatigue is difficult to determine after the fact".[40] Because their jobs are on the line, drivers will rarely acknowledge they were sleeping or fatigued when driving. Regardless, the sheer scale of the problem is clear evidence of the impact improvements in driver fatigue can have on safety and saving lives.

Moreover, at the direction of Congress in section 32301 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, the FMCSA conducted a field study of the restart provisions in the 2011 final rule. The findings of the study released in January of 2014 were conclusive that restarts with two or more nighttime periods, as required under the 2011 HOS final rule, helped to mitigate fatigue when compared with restarts with only a single nighttime period as had previously been allowed. The study found that drivers using 34-hour restarts with only one-nighttime period:

- Exhibited more lapses of attention, especially at night.
- Reported greater sleepiness, especially toward the end of their duty cycles.
- Showed increased lane deviations at night and in the morning and afternoon.
- Slept predominantly during the day.
- Worked predominantly during the night.
- Drove longer hours and typically at night.[41]

In summary, the once-per-week limit on the use of the 34-hour restart, on average, cuts the maximum work week from 82 to 70 hours. This is still a lengthy work week which is nearly double the total work hours of the average American. The provision also still enables drivers to alternate extended work weeks with shorter work weeks, providing truck drivers with the flexibility necessary to meet the demands of today's freight industry. Similarly, the requirement to take two overnight off-duty periods between 1 a.m. and 5 a.m. ensures that if

a driver uses the 34-hour restart to extend the work week beyond the 60- or 70-hour driving limit (depending on their work schedule) the rest period will contain two night-time periods to permit the driver to obtain the most restorative type of sleep. A minimum of two night-time periods is needed to prepare him/her for the rigors of the extended work week and the demanding job of safely operating a commercial motor vehicle weighing 80,000 lb. on our highways shared with other motorists.

In December of 2014, an amendment sponsored by Senator Susan Collins (R-ME) that prohibits the DOT from enforcing the safety reforms adopted by the FMCSA in the 2011 HOS final rule was included in the government funding legislation known as the "Crominibus".[42] The amendment was included in the bill despite opposition from Advocates and child, truck and highway safety groups, labor, truck crash victims, law enforcement, consumer, medical and public health organizations as well as several large trucking companies and U.S. DOT. The provision not only undermines the safety reforms to the 34-hour restart that the expert agency, the FMCSA, has determined improve public safety on our highways, but it also usurps the jurisdiction of the authorizing body, the Commerce Committee and this Subcommittee, by legislating a substantive change in federal law on an appropriations bill. Advocates opposes extending the Collins Amendment as well as Section 132 of the THUD bill which seeks to place unnecessary burdens on the study of the 2011 HOS final rule currently being conducted by the FMCSA as required by the Collins Amendment.[43]

Opponents of the 2011 changes to the HOS restart provisions have claimed that these limitations forced drivers to take a break when they aren't tired and then, following the break, force them back on the road all at the same exact time. These assertions are patently false and have no factual basis. First, the HOS rules do not govern sleep, but merely ensure that carriers must provide drivers with ample time for drivers to obtain needed rest. Second, the HOS provisions do not specify when a restart must be taken or when a driver must return to duty following a restart. The 2011 modifications required only that any restart taken must end no earlier than 5:00 a.m. at the end of the 34-hour restart period, but the rule does not require or suggest that a driver must start operating at that exact moment.

Furthermore, the 2011 rule did not state in any way, shape, or form that drivers must all take their restarts at the exact same time on the exact same day. Restarts occur on different days of the week. If the claims of the 2011 rule's opponents were accurate, that would mean that all 5.6 million commercial motor vehicle drivers operating in the U.S., across the myriad of industries they serve, would all be maximizing the use of their hours, would all be on the exact same schedule, and would all be returning to duty at the same time and same day of the week all year long. This just does not happen; this is not the way the system works. The fact is the restart limitations only affect a relatively small percentage of drivers, those operating on the most extreme schedules, and it is those drivers who need and benefit from the 34-hour restart safety reforms contained in the 2011 final rule in order to be able to perform their jobs properly and to drive their long hours safely.

The Technical Memo recently released by the American Transportation Research Institute (ATRI), the research arm of the American Trucking Associations (ATA), discusses the "findings" of two analyses conducted ostensibly to determine the effect of the 34-hour

restart limitations on truck driver Hours of Service (HOS).[44] The first analysis was conducted to determine if the 34-hour restart limitations had increased weekday driving, particularly on Mondays, and increased daytime driving in general. The study reached two conclusions which contradicted industry predictions. First, the dreaded swarm of trucks hitting the road during the Monday morning rush hour time period did not materialize. In fact, the report revealed that truck activity on the National Highway System (NHS) shows that both daytime and nighttime driving increased on weekdays Tuesday through Friday and on Saturday. However nighttime increased by a greater percentage than daytime driving on all of those days. Mondays on the other hand saw a decrease in both daytime and nighttime driving. Second, the study was unable to identify a clear indication that driving time was shifted due to the 1 am to 5 am requirement.

Despite the lack of conclusions in the first analysis, the ATRI conducted the second analysis to examine the safety impact of changes in driving times resulting from the 34-hour restart limitations. In this case the analysis was limited strictly to the number of crashes, which could be affected by any number of other factors beyond the HOS change. The ATRI was able to draw few if any conclusions from this analysis, often relying on conjecture to explain results which did not correlate with the findings of the first analysis. Perhaps the clearest indication of the overall problems with this study is that the ATRI was unable to interpret its own results and in their conclusions had to rely on the "anecdotal guidance and interpretation of the results" of industry executives.

Due to the high levels of fatigue self-reported by truck drivers since the 34-hour restart was adopted, the increasing number of truck crashes, deaths and injuries that are occurring as the economy recovers, and the increasing level of freight tonnage being shipped by truck, the reasonable safety reforms enacted in 2011 to curb the negative impact of the 34-hour restart are essential to protect the travelling public and the safety of truck drivers on our highways. No other mode of freight transportation comes close to causing the mortality and morbidity toll of truck crashes. It is not acceptable, agreeable or reasonable that special trucking interests are asking the public, professional truck drivers and lawmakers to accept these enormous losses as a cost of doing business in moving freight by trucks across our country.

Serious Problems Plague the Credibility and Reliability of the DOT Comprehensive Truck Size and Weight Limits Study

The American people are clearly opposed to having larger trucks on the highways besides them. A January 2015 nationwide survey conducted by Harper Polling found that 76 percent of respondents oppose longer and heavier trucks.[45]A May 2013 public opinion poll by Lake Research Partners found that 88 percent of Americans do not want to pay higher taxes for the damage caused by heavier trucks.[46] Attached to my statement is a summary of public opinion polls that show the high-levels of opposition to bigger, heavier trucks that the American public has steadily maintained over the past 20 years. In MAP-21, Congress required the Secretary of Transportation to conduct a comprehensive study of truck size and weight issues (Study) including the safety performance of trucks that would be bigger or heavier (or both) than current truck size and weight configurations.[47] This Study is intended to advise Congress and the American people about whether allowing larger trucks on the highway is a wise policy choice. That is why we are so concerned about the incredibly

inadequate manner in which this Study has been conducted to date. The Study has run into serious problems in its approach and methodology; these issues cannot be ignored and must be resolved before the Study is completed.

The Study is being conducted by the Federal Highway Administration (FHWA), a modal Administration within the DOT. The Study ran into problems from the outset when the FHWA did not publish a public bid notice or issue an open public request for proposals (RFP), but rather sent the contract terms and solicitation to a select group of just four contracting companies. While not exactly a "no-bid" contract, the letting of the contract and restricting the pool of consultants was not a transparent transaction. Moreover, the contractor selected through this closed bid process came with a built-in bias against existing truck size and weight limits. The general contractor selected has previously performed studies for several states and, in each and every instance, found that the states could and should increase truck size or weight limits, or both, on state roads. The contractor's reports also promoted and encouraged increases in federal size and weight limits.[48] The prior history and record of the contractor on these specific issues should have immediately raised red flags. The contractor's clear track record of support for increases in truck size and weight at the state level should have disqualified the company from consideration as the general contractor for the Study.

Criticism of the Study plan has also come from the National Academy of Sciences (NAS) Peer Review Committee on the Comprehensive Truck Size and Weight Limits Study. The NAS established a Peer Review Committee at the request of DOT after safety groups demanded an outside review of the DOT study plan and implementation of the Study. We believed it necessary to have an independent review of, and check on, the work performed by the Study contractor and the FHWA supervisory staff by outside experts. Then-Transportation Secretary Ray LaHood agreed. The NAS Peer Review Committee was asked to file two reports, one after the initial phase of the Study and another after the Study is completed but still in draft form.

The report on the initial phase of the project was issued by the NAS Peer Review Committee in March 2014 and it critiqued the approach taken by FHWA and its contractor in the Study plans and literature searches (desk scans) in each of the five subject matter areas that are part of the Study.[49] While such initial phase reports are usually only a few pages in length, the NAS Peer Review Committee issued an extensive 51-page report (NAS Report) on the initial phase of the Study finding numerous and serious problems and errors in the work performed.[50] The entirety of the criticisms and problems found by the Peer Review Committee in the NAS Report are too extensive to list here. I will provide some examples taken from the NAS Report's review of the Highway Safety and Bridge subject matter areas. A more complete summary of all the NAS Report criticisms of the Study are attached to my statement.

With regard to Highway Safety, the NAS Report pointed out that the Study plan and the desk scan for the Highway Safety area neglected, without any explanation, to include a number of pertinent and well-known studies by credible researchers on truck crash severity and brake defects, including case-control studies that are the most valuable means of controlling for driver experience and driving records in analyzing crash risk.[51] Moreover,

the Study plans and desk scans also inexplicably ignored the FHWA's own previous study of truck size and weight issues conducted in 2000 which concluded that longer combination vehicles have a statistically significant (11 percent) higher crash rate than single-trailer trucks.[52]

The NAS Report also pointed out that while the desk scans included references to regulations in foreign countries that permit longer combination vehicles (LCVs), "the review of safety research does not cover studies of the effectiveness of such regulations in mitigating hazards associated with larger trucks."[53] These are just a few of the criticisms raised in the NAS Report in the safety area. The Study plans and desk scans also failed to identify a more recent analysis that indicates that double-trailer trucks have about a 11 percent higher fatal crash rate than single-trailer combinations, and that single-trailer trucks with six or more axles have an extremely high fatal crash rate compared to the overall single-trailer truck fatal crash involvement rate.[54] The type of omissions noted in the NAS Report indicates a distinct and seemingly deliberate pattern of overlooking safety information and data that show the negative aspects of longer, heavier trucks while including all information that might be considered favorable to longer, heavier trucks.

Advocates has criticized the reliance of the Study on voluntary industry-supplied data provided by selected segments of the trucking industry because it introduces bias into the Study data analysis. Voluntary data and information cannot be independently verified and likely exclude unfavorable negative data and information that proponents of longer, heavier trucks may not wish to provide. Moreover, the source of the data and information is a stakeholder with a strong economic interest in the outcome of the Study and therefore, the use of voluntary industry-provided data is unacceptable.

In addition, Advocates is concerned with the use of a static "snapshot" of freight tonnage, ignoring estimated future increases in truck freight shipments. This assumption allows the Study to conclude that heavier/larger trucks, which carry more freight, will make fewer trips and result in fewer trucks on the road. This is a false premise. The number of registered trucks in the U.S. has continually increased, including after each past increase in truck size and weight limits.[55] FHWA confirms this trend documenting that the number of large trucks has increased by nearly 90% between 1982 and 2013, and that the vehicle miles traveled (VMT) by large trucks has increased by 147 percent over the same time period.[56]

For the Study, the FHWA has adopted a "no forecasting policy" with regard to future freight tonnage shipped by truck. This decision contradicts the FHWA's own estimate of a significant increase in shipments. From 2011 to 2012, the total weight of shipments by truck increased by 1.8 billion tons (17 percent). The FHWA predicts truck shipment weight to increase another 43 percent by 2040 to almost 19 billion tons.[57] Therefore, the Study is at complete odds with what will occur in the real world – there will be more large trucks, not fewer large trucks, carrying freight in the future, and that an appreciable percentage of those truck trips will be made by heavier and/or larger, longer truck combinations depending on the analysis of the Study. This fact cannot and should not be ignored in the analysis of the Study. In addition, since the estimated increases in freight demand also predict that trucking will be the predominant mode for most of the increases in freight movement – and trucking is, comparatively, the most dangerous mode from a safety standpoint – the shift to

larger/heavier trucks may exacerbate the significant safety losses already incurred in trucking operations.

Failure to take expected growth of freight into account is unrealistic and objectionable and will severely damage the validity of the Study, limit its use as a policy tool, and provide misleading results to Congress.

Additionally, the Study is using crash and operating data on LCVs currently conducted in sparsely populated, rural states and carried out under special controls and restrictions. This data cannot be readily transferred or extrapolated for application to more densely populated states and urban areas as the 2000 DOT Comprehensive Truck Size and Weight Study clearly pointed out.[58] Yet, this is exactly what FHWA intends to do in the Study. The safety performance of extra-long double and triple-trailer trucks operating in a state like Wyoming should not, indeed cannot, be used to support conclusions about the safety performance of these gigantic rigs operating in densely populated, more urban states in the eastern United States.

The NAS Report also identifies many other problems in its review of the bridge structure desk scan, and validates criticisms made by Advocates and many others that the methods employed in the Study are not objective or comprehensive. For example, the NAS Report:

- Points out that the bridge desk scan "does not include a comparative evaluation of alternative methods of assessing bridge costs of changes in size and weight limits[,]"[59] and "does not review the results of past studies of the effects of changes in truck traffic on bridges."[60]

- Concludes that the references supplied in the desk scan "appear to be primarily those that are necessary to support a predetermined plan of analysis"[61] rather than a search for pertinent and related data and information on bridge structures.

- States that the "principal risk of changes in [weight] limits is that the bridge inventories will decay more rapidly than expected[,]"[62] yet the bridge desk scan "does not identify methods or data sources to support estimates of the impacts of changes in [weight] limits on bridge barriers, medians barriers, or railings."[63]

It appears that the Study authors do not feel the need to review or document how they plan to estimate bridge deterioration costs that result from any specific change in truck weight limits. Perhaps they have a preconceived view which is not supported in the desk scan or maybe they are making it up as they go along. The lack of transparency in the process prevents us from knowing the answer to this conundrum.

The final example I will mention of the problems in the bridge desk scan critiqued in the NAS Report is the fact that the Study authors plan to base the entire national bridge analysis on the 2010 District of Columbia Department of Transportation (DCDOT) truck size and weight study. However, as the NAS Report points out, that particular study is unpublished. It is unknown just how the analysis performed for an urban jurisdiction with fewer than 300 bridges will apply to and affect the national bridge inventory of over 600,000 bridges. Since

the DCDOT truck size and weight analysis is unpublished, it is unknown if the methodology used in that analysis, even with modifications, has been tested and would be successful at producing an accurate analysis and national estimate. In short, it is ludicrous for a national, and supposedly comprehensive, truck size and weight study to rely on a bridge study conducted in an urbanized city and an unpublished and unverified means of analysis for a critical and essential portion of the Study.

The NAS Peer Review Committee Report made the following over-arching points about deficiencies of the Study:

- The available methods of analysis for use in the Study have "significant weakness" which have not been addressed.[64] The use of these compromised methods will impact the ability of the study to predict the results of changes in truck size and weight regulations and the Study conclusion will be of limited use in crafting future policy.

- The Study has been conducted in a backwards fashion, with the Study plans and methods of analyses determined before the desk scan review of available research and information was performed, stating that "in most cases the selection of methods appears not to have been a consequence of the desk scans."[65] This calls into question the bias on the part of the Study team to rely on pre-determined methods.

- Each of the five desk scans, which are supposed to be the foundation of the Study, was lacking in at least one of three main elements; survey of current methods and synthesis of state of the art, identification of data needs and data availability, and synthesis of past results. "None of the desk scans fully provides all three of these elements."[66]

- Inadequate time to complete needed evaluation and development of appropriate methods and data. "The constrained schedule imposed by the congressional study charge may have precluded a more systematic approach to evaluation and selection of methods."[67]

In summary, the FHWA should not complete the current truck size and weight Study, and Congress should not consider, debate or adopt any changes whatsoever in federal truck size and weight laws, unless and until the DOT eliminates all known and inherent biases, implements major revisions in the approach and methodology, uses only statistically valid data, and adopts essential corrective actions that allow a thorough public review of all draft technical studies, reports and public comments. This Study will influence federal and state transportation policy, working conditions for truck drivers and law enforcement, national freight and intermodal investments, clean air and fuel economy goals, and the public health and safety of our families for decades to come. Because the flaws are so significant and the process lacks adequate transparency, at this point in time Advocates recommends that the Study be stopped until Congress and the public are assured that corrections have been made, a new unbiased contractor has been selected to manage the Study, and that the findings are unbiased, unimpeachable and unchallengeable.

I had the honor of being a member, appointed by Secretary of Transportation Ray LaHood, of the National Freight Advisory Committee (NFAC),[68] which was established to assist in the development of a national freight strategic plan and which is comprised of representatives from the trucking, shipping, aviation, rail, labor, elected officials, academia, ports, environmental and safety communities. The NFAC was charged with making policy recommendations to the Secretary of Transportation concerning freight movement to advance safe and efficient freight transportation through intermodal solutions. As part of our deliberations, we highlighted, as a high priority, the need for research of future forecasting that considers changes in demographics, buyer behavior, manufacturing practices, and other factors that could restructure current freight supply and demand patterns. The complexity of players and stakeholders, as well as the interdependencies involved in modern supply chains was also fundamental to our considerations. Of utmost importance was the projected steep increase in freight demands expected to take place by 2040. Additionally, we stressed the need for improvements in data collection. In fact, in our recommendations submitted to Secretary Foxx on June 12, 2014, we wrote, "The lack of sufficient funding and lack of access to industry raw or complete data has persistently undercut the timeliness and completeness of freight data as a basis for public and private sector decision-making."[69] In contrast to the efforts of the Advisory Committee, the DOT appears content with using data in its analyses of freight issues that ignore real world conditions. In addition, DOT has taken few steps to upgrade its data systems and tear down the silos within DOT that could result in significant improvements in the coordinated use of transportation data, particularly with regard to freight policy.

The DOT Reauthorization Bill, GROW AMERICA Act

The Department of Transportation (DOT) surface transportation reauthorization legislation, the GROW AMERICA Act,[70] has a number of provisions related to motor carrier safety that Advocates supports including: Section 5102, Motor Carrier Operations Affecting Interstate Commerce, which clarifies the scope of out-of-service orders; Section 5104, High-Risk Carrier Reviews, which focuses enforcement on the highest risk motor carriers; and, Section 5302, Jurisdiction Over Brokers of Motor Carriers of Passengers, which extends certain aspects of the FMCSA's regulatory jurisdiction to brokers of carriers of passengers.

Advocates also supports Section 5506 which would allow the DOT Secretary to determine whether to issue regulations to govern non-motor carrier contractors that exercise operating control over motor carrier operations. To the extent that non-motor carriers exercise control over motor carrier operations, they should be regulated and subject to violations, fines and penalties for failure to adhere to safety regulations, especially since contractors may have little or no experience regarding commercial motor vehicle operations. However, the provision as written, only states that the Secretary "may" issue such regulations while Advocates believes that the Secretary "should" be required to issue regulations to clarify that contractors are subject to the same safety and regulatory requirements when exercising control over motor carrier operations.

I would like to focus my testimony on three important statutory changes that have been proposed by the U.S.DOT in the GROW AMERICA Act which Advocates opposes.

First, Advocates opposes amending 49 U.S.C. § 31144(g)(1)(A) and (g)(1)(B) to delete the mandatory requirement that new entrant motor carriers receive an initial safety review within a reasonable period of time. Just two years ago, Congress established the requirement in Section 32102 of the MAP-21 law to mandate that safety reviews of new operators must be conducted within 12 months for new freight motor carriers and within 120 days for new passenger-carrying motor carriers or intercity bus companies. There is an important public safety rationale for this requirement. While new entrant carriers should be permitted to enter the industry, since their safety performance is unknown, they should be subject to a timely safety review so that unsafe motor carriers are not able to operate for extended periods of time without any safety review. The National Transportation Safety Board (NTSB) has expressed concerns with delays in new entrant safety audits for more than a decade.[71] The NTSB has raised this concern as recently as three years ago in a report of a crash which killed four people and injured 58 when it stated:

> The report notes that new entrants need not demonstrate their capability to operate safely before they begin carrying passengers, but the safety check must occur within 18 months of the commencement of operations. In 18 months, however, a carrier with two 50-passenger buses running two trips a day could have carried more than 100 thousand passengers before having its first safety examination; and the motor carrier involved in this accident operated for 22 months before its first safety check.
>
> The public would be appalled if airlines could carry passengers before demonstrating their ability to do so safely. Query why a motor carrier should be allowed to carry passengers before demonstrating its safety fitness.[72]

In proposing to change the word "shall" to "may" in Section 5105 of the GROW AMERICA Act, New Entrant Safety Audits, DOT would make such initial safety reviews discretionary, rather than mandatory. Adopting the proposed change would mean that an initial safety review could be conducted at any time or not at all. Weakening the requirement that was just enacted into law two years ago is detrimental to highway safety, is not justified with factual arguments by DOT and should be rejected.

Second, Advocates opposes the changing of long-standing existing law, 49 U.S.C. § 31136(a)(4), regarding the standard for safety regulations. Current law requires that, among other things, minimum safety regulations issued by the DOT shall ensure that "the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators." This has been the law since first enacted in the Motor Carrier Safety Act of 1984,[73] and it has a well-established meaning that has been interpreted by the courts. The DOT proposes to replace the words "deleterious effect" with "significantly adverse effect" which clearly appears to raise the legal bar on challenges to federal regulations that impact the physical and medical condition of drivers.

This change is specifically intended to bar the courtroom door to truck drivers and others who are concerned about the impact that federal regulations have on the physical and medical conditions of commercial drivers. It is not a technical amendment but one clearly aimed at making it significantly more difficult for concerns about driver working conditions to be raised in the context of federal regulations. We believe it is proposed in response to the well-founded claims raised in the HOS lawsuits that pointed out the deleterious effect of

long work hours on drivers. If enacted into law, it will shield the federal regulations from challenges based on the medical evidence which shows that commercial drivers could be negatively affected, physically or medically by a proposed regulation. The result of the wording change will be to lower the effective level of protection afforded commercial drivers for physical and medical conditions under federal regulations since challenges under section 31136(a)(4) would be limited to only the most extreme situations. This does a disservice to truck drivers who have a difficult and physically demanding job in one of the most dangerous occupations, and it should be rejected by Congress.

Third, Section 5512, regarding Pre-Authority Safety Audits (PASA) of Mexican motor carriers,[74] proposes to eliminate the requirement, which has been in effect for more than a decade, that a percentage of the PASAs and other safety-related reviews for Mexican motor carriers that wish to operate in the United States must be conducted in Mexico at the headquarters or operations hub of the motor carrier. Safety reviews and compliance reviews need to be conducted at the motor carriers' headquarters so that in addition to reviewing the books and records of the motor carrier, federal safety inspectors can also inspect the carriers' maintenance facilities and the condition of available equipment. By permitting Mexican motor carriers to have safety reviews conducted at "any location" selected by the FMCSA, this may well mean that foreign motor carriers may not necessarily have on-site inspections or safety reviews conducted at the carrier's home-base facility as is done for U.S. domiciled motor carriers. While this may ease the burden on DOT inspectors, it may not adequately ensure that the safety and procedures of foreign motor carriers will be adequately reviewed and inspected. This is especially troublesome as the three-year cross-border pilot program of Mexican trucking operations in the U.S. nears its end and a decision about the opening of the southern border becomes more imminent. DOT has not provided any adequate justification for recommending this major change.

Mr. Chairman, the Senate Committee on Commerce, Science and Transportation led by this Subcommittee has drafted and enacted some of the most significant lifesaving motor carrier laws that are protecting motorists and commercial drivers from death and injury. The FMCSA reauthorization provisions adopted in MAP-21 under the Subcommittee leadership of the late Senator Frank Lautenberg resulted in advancing overdue and needed reforms and improvements in truck and bus oversight and enforcement. With truck crash deaths and injuries climbing these past few years, it is critical to continue this legacy and address the unfinished truck safety agenda.

End Notes

[1] *Large Truck and Bus Crash Facts 2013,* FMCSA-RRA-15-004, FMCSA (April, 2015).
[2] *Id.*
[3] *Id.*
[4] *Id.*.
[5] *Id.*
[6] 2014 Pocket Guide to large Truck and Bus Statistics, FMCSA (October 2014).
[7] *Large Truck and Bus Crash Facts 2013*
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] Making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2016, and for other purposes, 114th Cong., 1st Sess. (2015) .
[12] 48 People Involved in Bus and FedEx Truck Crash on Interstate 5, CBS SF, Mercer, B., Apr. 11 2014, http://sanfrancisco.cbslocal.com/2014/04/11/48-people-involved-in-bus-and-fedex-truck-crash-on-interstate-5-1-still-missing/.
[13] Making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2016, and for other purposes, *op cit.*
[14] Equivalent Single Axle Load, Pavement Interactive, Aug. 15, 2007, available at http://www.pavementinteractive.org/article/equivalent-single-axle-load/.
[15] 2013 Report Card for America's Infrastructure, American Society of Civil Engineers (ASCE), available at http://www.infrastructurereportcard.org/.
[16] 2013 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Chapter 8, FHWA 2014, available at http://www.fhwa.dot.gov/policy/2013cpr/pdfs/cp2013.pdf.
[17] Effect of Truck Weight on Bridge network Costs, NCHRP Report 495, National Cooperative Highway Research Program, 2003, available at http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_495.pdf.
[18] 2013 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Chapter 7, p. 7-30, FHWA 2014, available at http://www.fhwa.dot.gov/policy/2013cpr/pdfs/cp2013.pdf.
[19] 2000 Federal Highway User Fee Equity Ratios, Addendum to the 1997 Federal Highway Cost Allocation Study Final Report, FHWA, May 2000, available at http://www.fhwa.dot.gov/policy/hcas/addendum.htm.
[20] Report of the National Surface Transportation Policy and Revenue Study Commission, Transportation for Tomorrow, Dec. 2007, available at http://transportationfortomorrow.com/final_report/pdf/final_report.pdf.
[21] American Society of Civil Engineers, "Failure to Act: The Economic Impact of Current Investment Trends in Surface Transportation Infrastructure," January 2013, available at http://www.asce.org/uploadedFiles/Infrastructure/Failure_to_Act/Failure_to_Act_Report.pdf
[22] Traffic Safety Facts 2012: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System, NHTSA, DOT HS 812,032; Quick Facts 2013, NHTSA, DOT HS 812 100, Dec. 2014.
[23] Advocates for Highway and Auto Safety, analysis of for-hire truck registrations in the Truck Inventory and Use Survey / Vehicle Inventory and Use Survey, FHWA data, and Maine-Vermont Pilot Program data.
[24] *National Census of Fatal Occupational Injuries in 2013 (Preliminary Results)*, USDL-14-1674, Bureau of Labor Statistics, (Sep. 11, 2014).
[25] *Large Truck and Bus Crash Facts 2013,* FMCSA-RRA-15-004, FMCSA (April, 2015).
[26] Census of Fatal Occupational Injuries Charts, 1992-2013 (revised data), available from http://www.bls.gov/iif/oshcfoi1.htm.
[27] Census of Fatal Occupational Injuries Charts, 1992-2013 (revised data)
[28] 29 United States Code § 213(b)(1).
[29] Regulatory Impact Analysis and Small Business Analysis for Hours of Service Options, FMCSA, Dec. 2002.
[30] Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations, Final Rule, 68 FR 22456 (Apr. 28, 2003).
[31] Hours of Service of Drivers, NPRM (2010 NPRM), FMCSA, 75 FR 82170 (Dec. 29, 2010), *citing* Dinges, D.F. & Maislin, G., "Truck Driver Fatigue Management Survey," FMCSA (May 2006), FMCSA-2004 19608–3968.
[32] *Id.*

[33] 2010 NPRM, 75 FR 82175 (citations omitted). The FMCSA NPRM went on to state that the Virginia Tech Transportation Institute (VTTI) naturalistic driving study of CMV drivers operating under the 2003 rule, measured sleep averaged 6.15 to 6.28 hours (the average includes both work days and days off); the average on work days was 5.6 hours. *See* Hanowski, R.J., Hickman, J., Fumero, M.C., Olson, R.L. & Dingus, T.A., ''The Sleep of Commercial Vehicle Drivers Under the 2003 Hours of- Service Regulations,'' *Accident, Analysis and Prevention,* Vol. 39, No. 6, November 2007, pp. 1140–1145. FMCSA–2004–19608–3977.

[34] 2010 NPRM, 75 FR 82176 ("In the Virginia Tech Transportation Institute (VTTI) naturalistic driving study of CMV drivers operating under the 2003 rule, measured sleep averaged 6.15 to 6.28 hours (the average includes both work days and days off); the average on work days was 5.6 hours." Citing Hanowski et al.).

[35] "Unhealthy Sleep-Related Behaviors – *12 States, 2009*," Centers for Disease Control and Prevention, MMWR vol.60/No.8, p. 236 (March 4, 2011); Adults who reported obtaining less than an average of 7 hours of sleep per 24-hour period also showed a 39 percent increase in the likelihood that they would unintentionally fall asleep during the day at least once in the prior 30 days compared to adults who obtained more than an average of 7 hours of sleep.

[36] Hours of Service of Drivers, Final Rule, FMCSA, 76 FR 81134; 81135. (2011 Final Rule).

[37] 2011 Final Rule, 76 FR 81169.

[38] Hours of Service Rule, Regulatory Impact Analysis, FMCSA, (Dec., 2011).

[39] *Large Truck and Bus Crash Facts 2013,* FMCSA-RRA-15-004, FMCSA (April, 2015).

[40] 2011 NPRM, 75 FR 82176.

[41] Field Study on the Efficacy of the New Restart Provision for Hours of Service, FMCSA (Jan., 2014).

[42] Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235 (2014).

[43] Making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2016, and for other purposes, *op cit.*

[44] Technical Memorandum: Quantifying Impacts from the 34-Hours Restart Provisions, American Transportation Research Institute, April 2015.

[45] Press Release: While Large Trucking Companies Lobby for Bigger Semitrailers, National Troopers Coalition Chair Points to Poll Showing Three of Four Americans Oppose Increases, Coalition Against Bigger Trucks, February 10, 2015.

[46] Memo Re: Increasing the legal weight for trucks in the U.S., Lake Research Partners (May 7, 2013), available at http://www.trucksafety.org/images/sts2013/sts2013-lr-memo-tsc.pdf.

[47] Section 32801, Pub. L. 112-141 (Jul. 6, 2012).

[48] Study of Impacts Caused by Exempting the Maine Turnpike and the New Hampshire Turnpike from Federal Truck Weight Limits, June 2004; Northern Minnesota / Northwestern Wisconsin Regional Freight Plan, Nov. 2009; I-15 Corridor System Master Plan Freight: Trucks, June 2011; I-70 Dedicated Truck Lanes Feasibility Study Phase 2 Report, High Productivity Vehicle (HPV) Scenario Guidance 2011.

[49] The five subject matter areas consist of: Highway Safety and Truck Crash, Bridge Structure, Pavement, Modal Shift, Enforcement and Compliance.

[50] Review of U.S. Department of Transportation Truck Size and Weight Study, First Report: Review of Desk Scans (NAS Report), National Academy of Sciences, Transportation Research Board (March 31, 2014).

[51] NAS Report, pp. 35-36.

[52] Comprehensive Truck Size and Weight Study (2000 DOT Study), FHWA-PL-00-029, vol. III, p. VIII-5, U.S. Department of Transportation (August, 2000).

[53] NAS Report, p. 33.

[54] An Analysis of Truck Size and Weight: Phase I – Safety, Multimodal Transportation & Infrastructure Consortium (Nov. 21, 2013) ; Memorandum from J. Matthews, Rahall Appalachian Transportation Institute, Sep. 29, 2014.

[55] "Bigger, Heavier Trucks Just Means More Trucks That Are Bigger and Heavier," Advocates for Highway and Auto Safety (Dec. 2013).

[56] *Large Truck and Bus Crash Facts 2013*

[57] Freight Facts and Figures 2013, p. 3, Table 2-1, FHWA Office of Freight Management and Operations, FHWA-HOP-14-004 (Jan. 2014), Freight Facts and Figures 2012, p. 9, Table 2-1, FHWA Office of Freight Management and Operations, FHWA-HOP-13-001 (Nov. 2012)..

[58] 2000 DOT Study, vol. III, p. VIII-6.

[59] NAS Report, p. 11.

[60] *Id.*

[61] *Id.*
[62] *Id.*, p. 12.
[63] *Id.*
[64] *Id.*, p. 2.
[65] *Id.*, p. 1.
[66] *Id.*, pp. 1-2.
[67] *Id.*, p. 1.
[68] Notice of Establishment of National Freight Advisory Committee (NFAC or Committee) and Solicitation of Nominations for Membership, 78 FR 11727 (Feb. 19, 2013).
[69] Recommendations to U.S. Department of Transportation for the Development of the National Freight Strategic Plan, NFAC, p. 15 (June 12, 2014).
[70] Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act (GROW AMERICA Act), DOT proposed reauthorization legislation, available at http://www.dot.gov/policy-initiatives/grow-america/grow-america-act.
[71] Highway Accident Report: Collision of a Greyhound Lines, Inc. Motorcoach and Delcar Trucking Truck Tractor-Semitrailer Loraine, Texas June 9, 2002, NTSB Report HAR-03/01, p. 37, "The Safety Board concludes that by conducting safety audits up to 18 months after carriers begin operation, the FMCSA potentially allows unsafe carriers to operate without oversight and without the benefit of the educational and technical assistance that the FMCSA provides during the safety audit."
[72] Accident Report: Motorcoach Roadway Departure and Overturn on Interstate 95 Near Doswell, Virginia, May 31, 2011, NTSB Report HAR-12/02.
[73] Motor Carrier Safety Act of 1984 (MCSA), Pub. L 98-554 (1984).
[74] Audits and compliance investigations of Mexico-domiciled motor carrier.

Idaho Groups Oppose Special Interest Truck Safety Exemptions in Fiscal Year 2016 THUD Appropriations Bill

May 12, 2015

Dear Members of the House Committee on Appropriations:

As the House of Representatives considers H.R. 129, the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016 (THUD), we urge you to remove Section 127 (m), which carves out special interest exemptions from federal truck size and weight limits for Idaho and has no place in an appropriations bill. As organizations and residents of Idaho, we are united in opposing this section and urge you to reject it and any similar amendments which may be introduced that puts the lives of the motoring public at risk. We request that this letter outlining our concerns be submitted into the official record of debate for H.R. 129.

Special exceptions for Idaho to allow 129,000 pound trucks on highways (Section 127 (m)), an alarming 61 percent increase over the 80,000 pound federal weight limit, should be defeated in the name of safety and protecting taxpayer investment in our shared federally-funded Interstate Highway System. In Idaho, attempts to haul massive loads to the Alberta tar sands on Highway 12, which is part of the Wild and Scenic Middle Fork Clearwater and Lochsa Rivers Corridor, have been met with resistance from the Nez Perce Tribe and other citizens throughout the state. Leaders and activists of the Coeur d'Alene and Shoshone-Bannock Tribes and Idaho-based organizations have submitted extensive public comments, offered public informational meetings, and/or staged numerous demonstrations to banish similar fossil fuel infrastructure from Interstates 84 and 90, U.S. Highways 20, 26, 93, and 95, and all Idaho highways. Since February 2011, these colossal transport operations have delayed, confused, and blocked public highway access and traffic, impeded public and private emergency services, collided with vehicles, tree branches, cliffs, and power lines, caused personal injury and property damage, and cost the Idaho Transportation Department hundreds of thousands of dollars in administrative costs not covered by oversize vehicle permits. **We urge you to oppose special interest exceptions for road segments from federal truck size and weight limits.**

Every year on average, 4,000 people are killed and 100,000 people are injured in large truck crashes. From 2009 to 2013, truck crash injuries increased by a staggering 28 percent, resulting in 95,000 injuries in 2013, and truck crash fatalities increased by 17 percent, with 3,964 deaths in 2013. Fatality figures for 2013 show an increase in large truck fatalities for the fourth year in a row (National Highway Traffic Safety Administration, NHTSA). Large trucks were involved in 16.4 percent of fatal crashes in Idaho in 2013. (Fatality Analysis Reporting System, FARS) Between 2009 and 2013, a total of 1,000 people died on Idaho's highways, 214 of these deaths occurred in 2013 alone (FARS). **We urge you to not jeopardize the safety of truck drivers, the motoring public and the 29.8 percent of Idahoans who do not use motorized transportation on our roads.**

Bigger and heavier trucks will inflict more destruction to the environment. Since 1990, the rate of growth of greenhouse gas emissions from freight sources has been more than twice as fast as emissions from passenger sources, in large part because of the rapid increase in emissions associated with medium and heavy trucks (U.S. Environmental Protection Agency, EPA). Heavy trucks are responsible for one-third of

U.S. mobile source NOx emissions and almost a quarter of mobile source PM-10 emissions (Federal Highway Administration, FHWA). **We urge you to not increase pollution and greenhouse gases.**

The state of Idaho's infrastructure is dire. Sixty percent of Idaho's major roads are in poor, mediocre or fair condition. Twenty percent of Idaho's bridges are structurally deficient or functionally obsolete (TRIP). Driving on roads in need of repair costs Idaho motorists $404 million a year in extra vehicle repairs and operating costs—$370 per motorist (American Society of Civil Engineers Report Card for America's Infrastructure, ASCE). Idaho's estimated annual road and bridge funding shortfall is $262 million ("Governor's Task Force on Modernizing Transportation Funding in Idaho 2011 – Final Report"). **We urge you to not further damage our nation's crumbling infrastructure.**

Truck size and weight exemptions should not be considered while the U.S. Department of Transportation (DOT) is in the process of conducting the comprehensive study on bigger trucks and their impacts on safety and infrastructure as mandated by Congress in MAP-21. **We urge you to not preempt the congressionally-mandated Comprehensive Truck Size and Weight Study.**

The American public has consistently opposed increases to truck size and weight in numerous polls. Local and regional groups in Idaho have joined together in opposing the massive loads using our roads. They put our people, infrastructure, and environment at serious risk. They vastly exceed the capacity for which our roads were designed. They support an industry that is profiting from the world's dirtiest oil and contaminating our air and water for generations to come. We ask you to not usurp Idahoans' best interests for corporate profits and to not condemn remote, rural Idaho roads as economic and environmental sacrifice zones for distant industrial developments, by not allowing greater truck dimensions on Idaho highways. **We urge you to take action to protect not only truck drivers and motorists in Idaho but throughout our great nation and remove these provisions from the THUD FY 2016 Appropriations bill.**

Sincerely,

Helen Yost, Community Organizer
Wild Idaho Rising Tide

Cynthia Gibson, Executive Director
Idaho Walk Bike Alliance

Gary Macfarlane, Ecosystem Defense Director
Friends of the Clearwater

E. Patrick Fuerst, Co-Chair
Palouse Environmental Sustainability Coalition

Adrienne Evans, Executive Director
United Action for Idaho, United Vision for Idaho

Parents Against Tired Truckers and Citizens for Reliable and Safe Highways

May 12, 2015

Dear Members of the House Committee on Appropriations,

As families who have lost loved ones in preventable truck crashes, we are writing to implore you to remove all anti-truck safety provisions in the House Committee on Appropriations FY 2016 Transportation, Housing and Urban Development (THUD) bill.

Specifically, we oppose:

- Any proposal to increase the current length of double-trailer trucks from 28-feet to 33-feet, a total 10 feet longer than the trailers they would replace, and 17 feet longer than the 53-foot single-trailer trucks on the road today. If passed, this legislation allowing those longer trucks would override the laws of many states. (Sec. 125)
- Special interest exemptions, for states like Idaho and Kansas to increase truck size or weights. (Secs. 124 and 126)
- Language that would essentially kill the 34-hour restart "weekend off" for truck drivers forcing them to drive and work up to 82 hours per week. (Sec. 132)
- A prohibition on a rulemaking occurring right now at the U.S. Department of Transportation (DOT) to determine whether or not motor carriers, including trucks and buses, are required to have sufficient insurance coverage which has not been reviewed and revised since 1985. (Sec. 134)

These types of broad policy changes have no place in the appropriations process, and should be properly vetted and debated through the committee authorization process.

Safety must remain our top priority. Every year on average 4,000 people are killed in truck crashes in the United States and another 100,000 are injured. According to the DOT, truck crash related deaths have increased for the fourth year in a row—a 17 percent increase since 2009. We and our families have paid the ultimate price for business as usual and for the excessive demands of the trucking industry for bigger trucks. In April, five nursing students from Georgia Southern University were killed and two others seriously injured when a truck slammed into their vehicle which was stopped due to an earlier accident. The facts don't lie: the current system is not working. Large trucks are overrepresented in roadway fatal crashes and even more so in work zone fatal crashes.

Allowing 33-foot double trailers in the Appropriations process would be a slippery slope to opening the door to triple-trailer trucks using 33 foot trailers, which would be well over 100 feet long, compared to the length of an average family car, which is only about 16 feet. Increasing 28-foot double-trailer trucks to 33-foot double-trailer trucks results in a six-foot wider turning radius making them more dangerous to motorists, motorcyclists, bicyclists and pedestrians and will

result in more deaths and injuries. It also means a bigger exposed footprint for side underride deaths and injuries, already a significant and growing problem. Compounding this is the suspension of the current safety limits on the 34-hour rest period which will dramatically increase the allowable driving hours of truck drivers from the current average of about 70 hours a week to more than 80 hours a week putting even more overworked drivers behind the wheel of even bigger trucks.

Allowing bigger, heavier trucks will also increase the wear and tear on our crumbling infrastructure and ultimately cost American taxpayers even more money. The costs to assess and change road infrastructure such as guard rails, rail crossings, bridge capacity, and other needed improvements to accommodate larger trucks all will fall on to the public. We lack the resources to appropriately maintain and replace our infrastructure as is. As Congress struggles with how to fund the next surface reauthorization bill, the Highway Trust Fund is projected to go broke sometime later this year.

Finally, we wanted to specifically mention an issue that has affected many of our families deeply and directly. Minimum levels of insurance for trucks, currently set at $750,000, have not been increased in over 35 years and are woefully insufficient. Provisions (Sec. 134) in the House THUD bill to block funding for the rulemaking process regarding minimum insurance for truck carriers should be removed and the process should be allowed to continue. The underinsured segments of the industry force families like ours to shoulder the burden for their unsafe practices, effectively subsidized through unreimbursed social welfare programs including Medicaid and Social Security. If all of the industry were required to absorb more of the losses they cause, significant changes in the industry would occur, resulting in safer highways for all.

Allowing bigger, heavier trucks, driven by overworked and fatigued drivers will not result in fewer trucks or make our roads safer. We must not give in to industry demands for false promises of greater efficiency at the cost of more lives lost.

Sincerely,

Daphne Izer
Lisbon, ME
Founder, Parents Against Tired Truckers (PATT)
Mother of Jeff Izer
Killed in a truck crash 10/10/93

Tami Friedrich Trakh
Corona, CA
Board Member, CRASH
Sister of Kris Mercurio, Sister-in-Law of Alan Mercurio, Aunt of Brandie Rooker & Anthony Mercurio
Killed in a truck crash 12/27/89

Jennifer Tierney
Kernersville, NC
Board Member, CRASH
Member, Motor Carrier Safety Advisory Committee (MCSAC)
Daughter of James Mooney
Killed in a truck crash 9/20/83

Larry Liberatore
Severn, MD
Board Member, PATT
Father of Nick Liberatore
Killed in a truck crash 6/9/97

Linda Wilburn
Weatherford, OK
Board Member, PATT
Mother of Orbie Wilburn
Killed in a truck crash 9/2/02

Jane Mathis
St. Augustine, FL
Board Member, PATT
Mother of David Mathis
Mother-in-Law of Mary Kathryn Mathis
Killed in a truck crash 3/25/04

Ed Slattery
Lutherville, MD
Volunteer, Truck Safety Coalition
Husband of Susan Slattery
Killed in a truck crash 8/16/10
Sons Matthew & Peter Slattery critically injured

Kate Brown
Gurnee, IL
Volunteer, Truck Safety Coalition
Member, Illinois State Freight Advisory Committee (ISFAC)
Mother of Graham Brown
Injured in a truck crash 5/2/05

Dawn King
Davisburg, MI
Board Member, CRASH
Daughter of Bill Badger
Killed in truck crash 12/23/04

Marianne and Jerry Karth
Rocky Mount, NC
Volunteers, Truck Safety Coalition
Parents of AnnaLeah and Mary Karth
Killed in a truck crash 5/4/13

Frank and Marchelle Wood
Falls Church, VA
Volunteers, Truck Safety Coalition
Parents of Dana Wood
Killed in a truck crash 10/15/02

Jackie Novak
Edneyville, NC
Volunteer, Truck Safety Coalition
Mother of Charles "Chuck" Novak
Killed in a truck crash 10/24/10

Bruce King
Davisburg, MI
Volunteer, Truck Safety Coalition
Son-in-law of Bill Badger
Killed in truck crash 12/23/04

Ron Wood
Washington, D.C.
Volunteer, Truck Safety Coalition
Son of Betsy Wood, Brother of Lisa Wood Martin, Uncle of Chance, Brock, and Reid Martin
Killed in a truck crash 9/20/04

Gary Wilburn
Weatherford, OK
Volunteer, Truck Safety Coalition
Father of Orbie Wilburn
Killed in a truck crash 9/2/02

Dana Logan, Professional Truck Driver
Cedar Hill, TX
Volunteer, Truck Safety Coalition
Injured in a truck crash 6/04

Melissa Gouge
Washington, D.C.
Volunteer, Truck Safety Coalition
Cousin of Amy Corbin
Killed in a truck crash 8/18/97

Rachel Ann Meneses
Glastonbury, CT
Volunteer, Truck Safety Coalition
Injured in a truck crash 10/12/11

Sandra Lance
Chesterfield, VA
Volunteer, Truck Safety Coalition
Mother of Kristen Belair
Killed in a truck crash 8/26/09

Scott Harper
Belmont, MA
Volunteer, Truck Safety Coalition
Son of Mimi Harper
Killed in a truck crash 9/20/11

Grace Prince
Sandersville, GA
Volunteer, Truck Safety Coalition
Mother of Rita Rose
Killed in a truck crash 4/12/10

Crystal Renner
Cleveland, TN
Volunteer, Truck Safety Coalition
Family members James Whitaker, Anthony Hixon, and Amber Hixon
Killed in a truck crash 9/18/09

Christina Mahaney
Jackman, ME
Volunteer, Truck Safety Coalition
Injured in a truck crash 7/19/2011
Mother of Liam Mahaney
Killed in a truck crash 7/19/2011

Julie Branon Magnan
South Burlington, VT
Volunteer, Truck Safety Coalition
Injured in a truck crash 01/31/02
Wife of David Magnan
Killed in a truck crash 01/31/02

Laurie and Randall Higginbotham
Memphis, TN
Volunteers, Truck Safety Coalitio
Parents of Michael Higginbotham
Killed in a truck crash, 11/18/14

Henry Steck
Homer, NY
Volunteer, Truck Safety Coalition

In the United States House of Representatives

Committee on Transportation and Infrastructure

Subcommittee on Highways and Transit

April 29, 2015

Role of Federal Regulation

Testimony of Peter J. Pantuso,

President and Chief Executive Officer of the American Bus Association

Chairman Graves, Ranking Member Norton and members of the Subcommittee, the American Bus Association appreciates the opportunity to submit testimony on the very critical issue of reforming the Federal Motor Carrier Safety Administration (FMCSA). This issue is of some importance to the American Bus Association (ABA) and its 3500 member organizations, convention and visitors' bureaus, bus operators and destinations. Simply put, the FMCSA is charged with, among other things, creating the safety net which the traveling public can depend on to ensure safe carriers and drivers.

Every day thousands of companies and hundreds of thousands of employees work in concert to provide nearly 2 million passenger trips by motorcoach[1]. While our industry has one of the best safety records of any surface transportation mode the lack of consistent national, federal inspection practices and targeted enforcement actions means not all bus operators are compliant with basic federal safety regulations. The failure of federal and state agencies to enact a comprehensive national and uniform inspection structure in all 50 states is not a failure of regulation but a failure of prioritization and enforcement.

Motor carrier inspections and enforcement are primarily achieved through a partnership between the federal government and a mixture of state and local enforcement personnel (such as specially trained commercial vehicle enforcement units, highway patrol units, county sheriff's offices, city police, etc.). The federal funding is part of the Motor Carrier Safety Assistance Program (MCSAP). The goal of the MCSAP is to reduce Commercial Motor Vehicle (CMV) involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. The U.S Department of Transportation (DOT) invested nearly $180 million (FY 2015) to ensure uniform enforcement of the safety rules, regulations, and standards compatible with the Federal Motor Carrier Safety Regulations (FMCSRs).

According to an analysis done of fatal motorcoach accidents by ABA, the data show that nearly 60% of all onboard motorcoach related fatalities resulted from carries determined to be either illegal or unsafe, after more thorough investigation. Additionally, motorcoach inspections are not uniformly conducted among the states (some states do them, so some states do not; and some states with large numbers of motorcoach companies or motorcoach visited destinations, have a low number of motorcoach

[1] ABA Foundation Motorcoach Census at http://www.buses.org/research

inspections), which allows for the creation of "safe harbors" for motorcoach operators wishing to escape inspections. The FMCSA shifted some attention to "high-risk" carriers in 2013 when the National Transportation Safety Board called into question the effectiveness of the FMCSA's inspection program. However, actions by FMCSA, including Operation Quick Strike and other periodic enforcement efforts, are not sustained processes. In fact the success of Quick Strike, which shut down 52 carriers, shows the systemic weakness in the current enforcement program[2].

ABA believes only a national, ongoing uniform inspection and targeted enforcement structure can ensure passenger safety and create a level playing field for bus operators. Furthermore, while ABA supports a strong partnership between state inspectors and federal regulators, we find the current relationship is broken. Creating long term solutions to ensure the safety of the traveling public requires federal regulators to enforce granting provisions requiring states to have a bus inspection program along with trained bus inspectors. Granting provisions should also shift resources towards targeted action as opposed to misapplying resources toward repeated inspections of easily identified low risk carriers. In many cases, well-known local and national carriers are being subjected to repeated inspections in an effort to increase vehicle and company inspection totals. This practice not only creates disruptions for the carriers involved but enables unsafe and illegal operators to avoid detection.

Finally motorcoach passengers are entitled to the same protections as other modes of transportation including a compliant operator with inspected vehicles. Roadside inspections, including weight stations, put passengers in danger, establish unforeseen and unpredictable delays, and set up a discriminatory process which classifies motorcoach transportation as a second tier system. Simply put, we do not land planes mid-flight or stop trains for inspections, so why should we stop buses mid-trip? Passengers are entitled to the same safety net for motorcoaches as is present in other forms of commercial public transportation.

Key Recommendations

- Funding set aside for bus inspections and inspector training to ensure that we close safe harbor states.
- The establishment of a bus inspection program in every state that includes training for and testing of inspectors specifically for motorcoaches. Including a provision in funding guidance that requires the Secretary of Transportation to rescind a portion of funding, for a given State that fails to enact a creditable bus inspection program, and authorizes the contracting of third party inspectors.
- Granting guidance that favors targeted inspections of carriers with a history of poor safety standards over repeated inspections of the same carriers.
- ABA supports the implementation MAP-21 provisions requiring a review of the effectiveness of the commercial motor vehicle inspection program as it relates to passenger carriers.
- End the practice of illegal weigh station inspections and ensure that operators are safe and compliant before passengers board vehicles.

---

[2] Operation Quick Strike information available at http://www.dot.gov/briefing-room/fmcsa-operation-quick-strike-removed-52-unsafe-bus-companies-road

Statement of

The Associated General Contractors of America

to the

Transportation and Infrastructure Committee
Subcommittee on Highways and Transit
United States House

on the topic of

Federal Motor Carrier Safety Administration's Hours of Service Regulations Impact on Construction Industry Businesses

April 29, 2015

AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 26,000 firms, including 6,600 of America's leading general contractors, and over 9,300 specialty-contracting firms. More than 10,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. Visit the AGC Web site at www.agc.org.

The Associated General Contractors of America (AGC) is the leading association in the construction industry representing more than 26,000 firms in 94 chapters throughout the United States. Among the association's members are approximately 6,000 of the nation's leading general contractors, more than 9300 specialty contractors, and more than 10,000 material suppliers and service providers to the construction industry. These firms are engaged in the construction of highways, bridges, tunnels, airports, transit, railroad, ports, buildings, factories, warehouses, shopping centers, water treatment plants and other public and privately owned facilities. AGC members perform construction contracts in all 50 states and own and operate fleets of commercial motor vehicles to carry out these construction contracts. AGC members are therefore directly impacted by the Federal Motor Carrier Safety Administration's (FMCSA) Hours of Service regulations and indirectly by how these rules impact their suppliers.

In 1995, Congress recognized that the FMCSA's hours-of-service regulations were too restrictive on several industries, including the construction industry. In the National Highway System Designation Act of 1995 (section 345), Congress modified the regulations for construction industry drivers transporting construction materials and equipment to and from an active construction site within a 50-air-mile radius of the driver's normal work reporting location. These drivers are allowed to restart the on-duty clock after an off-duty period of 24 or more consecutive hours. Congress also directed the Secretary of Transportation to ensure that granting the construction industry exemption would be in the public interest and would not have a significant adverse impact on the safety of commercial motor vehicles. If at any time the Secretary determined that this was not the case, the Secretary could "prevent the exemption from going into effect, modify the exemption, or revoke the exemption." Now, nearly twenty years after the rules' implementation, FMCSA has found no adverse impact from this exemption.

Congress created the exemption for the construction industry in recognition of the unique circumstances faced by the industry's drivers. These unique circumstances include: seasonal limits on when work can be done, materials that must be put in place within tight time limits or be lost forever, drivers spending much of their time not actually driving but waiting in lines to pick-up or deliver materials, and drivers being under constant supervision as they return continuously to the job site or the source of the materials. Construction industry drivers generally drive only in good weather conditions. No studies by FMCSA or others have concluded that there is a safety deficiency specific to construction workers driving under these rules. Because these factors have not changed, FMCSA's July 1, 2013 revisions to the HOS regulations maintained the clock reset provision for construction drivers.

While AGC supported FMCSA's decision to maintain this exemption in the new HOS regulations, this exemption needs to be modernized to address current construction industry realities by expanding its coverage. The mileage coverage of the exemption, however, needs to be expanded. Most of the material that is being transported for inclusion in construction projects are natural resources such as sand, aggregates, gravel, cement, lime, etc. These products are extracted from the earth and therefore are available only in their natural settings. As sources of these resources are depleted, new sources must be located and these tend to be in more

remote locations that are often further away from the site of the actual construction. Because locations are further away from where much of the construction is being done drivers must now cover greater, but still relatively short distances. Therefore, AGC recommends that the distance covered be expanded to a radius of 100 miles, with an exception allowing a radius of 150 miles in certain cases. All the reasons cited above for the creation of the exemption would continue to apply. And the 100 mile radius is consistent with the FMCSA's "short haul" exemption from HOS rules (see 49 CFR 395.1(e)).

A further modernization should be applied in States with a population density below the national average, where the radius should be 150 miles. In lower population density States, the location of construction activity, and of sources of supply for construction materials, such as quarries, cement plants, and asphalt plants, tend to be more widely dispersed. The adjusted mileage radius would adjust the regulatory regime to the somewhat different circumstances. For such reasons, these changes represent an appropriate modernization of a safe and successful regime. Moreover, as a further assurance of safety, FMCSA would still retain the authority to monitor safety and take action in the unlikely event that operation under the modernized provision were found to be not in the public interest and as having a significant adverse impact on the safety of commercial motor vehicles.

An additional modernization of the provision should be made to address emergency circumstances. Construction materials and equipment are sometimes needed during times of declared emergency to support work to repair the facilities of public utilities, including water, sewer, gas, and electric utilities. While there will be cases where utility service vehicles, which already have an exemption from the HOS rules, carry needed construction supplies, there may well be emergency cases where construction supplies and equipment are needed, to repair utilities, beyond what ordinarily would be carried by utility service vehicles. So, effective response to an emergency would be facilitated by allowing an extremely narrow exemption for construction transportation in emergency circumstances. Such exemption should be drafted so that FMCSA would still retain the authority to monitor safety and take action in the unlikely event that operation under the provision were found to be not in the public interest and as having a significant adverse impact on the safety of commercial motor vehicles.

While FMCSA's July 1 revised HOS regulations did not change the construction exemption, the rules establish a new impediment that negatively impacts the construction industry by requiring that drivers take a 30-minute break during an 8 hour on duty time period. While a federal appeals court directed FMCSA to exempt short haul drivers from this requirement, this unfortunately did not resolve the issue for the construction industry. Construction driving often requires short haul drivers to work shifts that may extend beyond 12 hours of on duty service. Even though short haul, these drivers are still required to take the 30 minute break in order to legitimately fulfill their 12 hour shift. A 12 hour shift is often necessary because drivers delivering perishable construction materials, especially concrete and asphalt, will not know in advance how long it will take to complete a delivery. Every day in construction is different and not always predictable. Construction contractors must have the flexibility to deliver concrete, asphalt and other materials when they are needed at the project. Deliveries are not always on a

regular schedule and delays can cause the material to be compromised. Therefore it is difficult for drivers to schedule this 30 minute break in a timely fashion that allows for delivery of the perishable material on time and also allows the needed flexibility. Delays in the delivery process can potentially cost a contractor thousands of dollars to repair or replace out of spec concrete or asphalt. Delays in material delivery can also impact the completion of projects such as road improvements which can have negative effects on both the contractor and motorists. While on duty for a 12 hour shift these drivers nevertheless spend much of their time waiting in line to pick up or deliver material and not driving. Unfortunately this down time does not count towards the 30 minute break requirement. AGC urges Congress to direct FMCSA to expand the construction industry exclusion to eliminate the 30 minute rest period requirement for these drivers.

Another reality of highway and bridge construction is that much of this activity involves rebuilding, expanding and in other ways improving existing transportation infrastructure. This requires that much of the work be performed under traffic, and in many cases heavy traffic. So as to not impact traffic flow, and to protect the safety of construction workers and motorists, significant amounts of road construction is required to be performed at night. FMCSA's new HOS requirements that drivers, including construction drivers that operate outside the 50 air-mile- radius, can only restart the weekly on-duty clock following a 34-hour off duty period that includes at least two periods between 1:00 a.m. and 5:00 a.m. will have significant cost impacts on construction contractors and the public agencies for whom they work. It will also significantly impact the wages drivers are able to earn while their companies are working overnight on major infrastructure projects because it will limit the hours they are allowed to work. These time restrictions are a real problem for contractors working night shifts in compliance with contract requirements. Therefore, AGC supports deferral of implementation of the new restart provisions in the new truck driver hours of service regulations that became effective July 1, 2013, pending completion of Government Accountability Office (GAO) reviews of: (1) the analysis used by the FMCSA to justify the new rules and, (2) the MAP-21 required restart field study.

In addition, FMCSA has proposed that all motor carriers required to maintain Records of Duty Status (RODS) for HOS recordkeeping be required to install and use electronic logging devices (ELD) to assure compliance with HOS restrictions. 79 Federal Register 17655 (March 28, 2014). While many construction industry drivers are already not required to maintain RODs under the short haul driver exemption (100 miles, see current and proposed 49 CFR 395.1(e)), occasionally they exceed the limit and would therefore be covered. AGC recommends that the construction exemption also be applied to the electronic logging device requirement. Under this recommended approach, FMCSA would have the authority to monitor safety and take action in the unlikely event that operation under the revised provision were found to be not in the public interest and as having a significant adverse impact on the safety of commercial motor vehicles.

Thank you for consideration of this statement.

Testimony of
Ms. Elizabeth Uihlein
President of Uline

Testimony to the Committee on Transportation and Infrastructure

Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony today on the Future of Commercial Motor Vehicle Safety and how the Federal government can help create a safer and more efficient trucking industry.

Uline is a family-owned Wisconsin business, the leading distributor of shipping, industrial and packaging materials throughout North America. We pride ourselves on providing our customers the best service possible.

Part of Uline's commitment to our customers requires fast, reliable freight carriers to move our product. Annually, we:

- Ship 71,000 skids of product
- Ship 34,000 truckloads of product from our Pleasant Prairie, WI Distribution Center to our branches
- Receive 100,000 truckloads of product from our vendors

The trucking industry as a whole has grown exponentially over the past 10 years. With the continued expansion of online markets and as the economy continues to grow, there is increased demand for fast and efficient systems to move freight. It is important that the Government not impede progress and allow for the shipping industry to monitor and make changes that keep pace with increased demand, safely and without broad or short sighted reforms that place rigid restrictions on both shipping and freight companies, and drivers.

Uline asks that congress help to ensure an efficient trucking industry by making the HOS changes enacted by The Senate Appropriations Committee, in the FY2015 Omnibus Appropriations Bill, permanent and for congress to address the lengthening of tractor-trailers to allow for the use of Twin-33s. Both of these issues need to be addressed in the upcoming transportation bill.

HOS LEGISLATION:

Two aspects of the Hours of Service rules imposed by Federal Motor Carrier Safety Administration (FMCSA) enacted on July 1, 2013, had a negative impact on our business, our supply chain partners and their drivers:

- Two mandatory periods of rest from 1 to 5 a.m. on two consecutive days
- Only one 34-hour restart per week

The unintended consequences of these two requirements accomplished the opposite of the FMCSA's intent—making roadways less safe, reducing drivers' wages, lowering industry productivity, undermining customer service and

disrupting the supply chain. In fact, the FMCSA testified before Congress, admitting that it did not study the implications of placing more trucks on the roads during rush hour traffic. This is hardly a recipe for enhanced safety.

The Senate Appropriations Committee addressed these concerns with bipartisan agreement in the FY2015 Omnibus Appropriations bill, which suspended the enforcement of these two rules for the period of one year, allowing for a study of the safety implications.

Uline supported the amendment to the HOS rules and supports making the Hours of Service suspension permanent in the transportation bill.

TWIN-33 LEGISLATION:

There is an indication that the upcoming Map-21 Truck Size and Weight Limits Study will state that lengthening tractor trailers for the current 28 ft. length and allowing the use of Twin-33s will reduce the stress on the current highway infrastructure, while increasing the safety of the trucking industry. Allowing for Twin-33s will reduce the number of trucks on the road by 6.6 million, without added risk to the public. Studies have shown that lengthening trailers to 33 ft. causes trucks to be more stable due to the longer wheel base, making them safer, not only under normal driving conditions, but in cornering as well.

Under current regulations, 28 ft. trucks routinely reach capacity before the 80,000 lbs. weight limit is reached. This costs businesses millions of dollars in lost revenue each year, requiring them to use more trucks to move freight. Allowing for the use of Twin-33s would increase shipment volume by 18% per load and reduce the number of trucks on the road, thereby saving billions of road miles a year and creating greater efficiency in the shipping and freight industry. In addition to the efficiency increases, increasing trailer length has the added benefit of reducing carbon emissions by 4.4 billion pounds a year, without an additional weight increase.

Uline supports legislative action allowing for Twin-33 trailers and believes this issue should be addressed in the upcoming transportation bill.

Creating a safer and more efficient trucking industry is an important part of a strong and healthy economy. The trucking industry is estimated to grow by at least 2% a year over the next several years. Some state that the growth could be as much as 6 %, increasing the demand, the amount of freight moved, and subsequently the number of trucks required to move freight across our Nation's highways. It is imperative that changes that permit the shipping and freight industry to maximize volume on each load and increase driver productivity be addressed. Implementing these two policy changes by permanently amending the HOS rule and allowing for the use of Twin-33 trailers will help create a robust and sustainable trucking industry that can grow and expand safely, responsibly and efficiently to meet the demand of both the public and businesses alike. It is vital to the continued growth and sustainability of the trucking industry that both the Hours of Service permanent amendment and the Twin-33 legislation be addressed legislatively in the upcoming transportation bill.

○